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OCT 23 2018  
AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FILED UNDER SEAL

NO.

UNDER SEAL

FILED ENTERED  
LOGGED RECEIVED

OCT 23 2018 GT

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SV DEPUTY

FILED IN CAMERA, UNDER SEAL UNTIL  
FURTHER ORDER OF THE COURT, 31 U.S.C. §§  
3730(B)(2).

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA, ex  
rel., RAJU A.T. DAHLSTROM,

Plaintiff,

v.

SUNRISE SERVICES, INC., a  
Washington Corporation,

Defendant,

LIFE CARE CENTERS OF AMERICA,  
Inc., a Tennessee Corporation,

Defendants.

**18-CV-01561** RSL  
Civil Action No.

RELATOR RAJU A.T.  
DAHLSTROM'S ORIGINAL  
COMPLAINT FILED  
PURSUANT TO 31 U.S.C. §§  
3729 – 3732

QUI TAM ACTION

JURY TRIAL DEMANDED

**I. INTRODUCTION TO THIS FCA CASE**

1. Relator Raju A.T. Dahlstrom (hereinafter, “Relator” “Plaintiff” or “Dahlstrom”), by and through his undersigned attorney, submits this Original Complaint on behalf of the UNITED STATES OF AMERICA, and on his own behalf to recover all damages, penalties, and other remedies against Defendants:

(a) Life Care Centers of America, Inc., (“Life Care”) a for-profit Tennessee

QUI TAM COMPLAINT  
UNDER SEAL

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LAKE HILLS LEGAL SERVICES, P.C.  
15600 N.E. 8<sup>th</sup> Street, # B1-358  
Bellevue, Washington 98008  
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Corporation; and (b) Sunrise Services, Inc., ("Sunrise") a for-profit, Washington Corporation, for violations of the False Claims Act (the "FCA"), 31 U.S.C. § 3729 *et seq.*, and Relator also allege that Defendants not only violated the FCA, but also the federal whistleblower provisions against retaliation,<sup>1</sup> and Washington state laws, and would show the following:

#### A. DEFENDANT LIFE CARE CENTERS OF AMERICA, INC

2. Virtually on the eve of Relator's hire decision on October 24, 2016,<sup>2</sup> by Defendant Life Care Centers of America, Inc., (DBA: Life Care Center of Mount Vernon) the Department of Justice (DOJ), Office of Public Affairs releases the following headlines on this day:

#### **"LIFE CARE CENTERS OF AMERICA, INC. AGREES TO PAY \$145 MILLION TO RESOLVE FALSE CLAIMS ACT ALLEGATIONS"**<sup>3</sup>

**Life Care Centers of America Inc. (Life Care) and its owner, Forrest L. Preston, have agreed to pay \$145 million to resolve a government lawsuit alleging that Life Care violated the False Claims Act by knowingly causing skilled nursing facilities (SNFs) to submit false claims to Medicare and TRICARE for rehabilitation therapy services that were not reasonable, necessary or skilled, the Department of Justice announced today. Life Care, based in Cleveland, Tennessee, owns and operates more than 220 skilled nursing facilities across the country.**

**"This resolution is the largest settlement with a skilled nursing facility chain in the department's history," said Principal Deputy Assistant Attorney General Benjamin C. Mizer, head of the Justice Department's Civil Division. "It is critically important that we**

<sup>1</sup> The FCA's retaliation provision entitles an employee to relief if he is "discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against . . . *because of* lawful acts done . . . in furtherance of an action" under the FCA. 31 U.S.C. § 3730(h).

<sup>2</sup> On October 25, 2015, Relator commenced his work at Life Care Centers of America, Inc., (DBA: Life Care Center of Mount Vernon) as Director of Social Services, and was constructively discharged on August 31, 2018, after filing complaints of FCA, HIPPA, Title VII complaints for discrimination and retaliation.

<sup>3</sup> See, Department of Justice's Press Release regarding Life Care's FCA settlement agreement. Accessible online at: <https://www.justice.gov/opa/pr/life-care-centers-america-inc-agrees-pay-145-million-resolve-false-claims-act-allegations>.

1 protect the integrity of government health care programs by  
2 ensuring that services are provided based on clinical rather than  
financial considerations.”

3 This settlement resolves allegations that between Jan. 1, 2006 and  
4 Feb. 28, 2013, Life Care submitted false claims for rehabilitation  
5 therapy by engaging in a systematic effort to increase its Medicare  
6 and TRICARE billings. Medicare reimburses skilled nursing  
7 facilities at a daily rate that reflects the skilled therapy and nursing  
8 needs of their qualifying patients. The greater the skilled therapy  
9 and nursing needs of the patient, the higher the level of Medicare  
reimbursement. The highest level of Medicare reimbursement for  
skilled nursing facilities is for “Ultra High” patients who require a  
minimum of 720 minutes of skilled therapy from two therapy  
disciplines (e.g., physical, occupational, speech), one of which has  
to be provided five days a week.

10 The United States alleged in its complaint that Life Care instituted  
11 corporate-wide policies and practices designed to place as many  
12 beneficiaries in the Ultra High reimbursement level irrespective of  
13 the clinical needs of the patients, resulting in the provision of  
14 unreasonable and unnecessary therapy to many beneficiaries. Life  
15 Care also sought to keep patients longer than was necessary in  
16 order to continue billing for rehabilitation therapy, even after the  
17 treating therapists felt that therapy should be discontinued. Life  
18 Care carefully tracked the minutes of therapy provided to each  
19 patient and number of days in therapy to ensure that as many  
20 patients as possible were at the highest level of reimbursement for  
21 the longest possible period. The settlement also resolves allegations  
brought in a separate lawsuit by the United States that Forrest L.  
Preston, as the sole shareholder of Life Care, was unjustly enriched  
by Life Care’s fraudulent scheme.

18 “Billing federal healthcare programs for medically unnecessary  
19 rehabilitation services not only undermines the viability of those  
20 programs, it exploits our most vulnerable citizens,” said U.S.  
21 Attorney Nancy Stallard Harr for the Eastern District of  
Tennessee. “We are committed to working with our federal  
partners to protect both.”

22 “The resolution announced today demonstrates the commitment of  
23 the U.S. Attorney’s Office to aggressively pursue providers who  
24 utilize fraudulent practices to knowingly put their own financial  
25 self-interest over a duty to patients,” said U.S. Attorney Wifredo A.  
26 Ferrer of the Southern District of Florida. “It is imperative that  
27 providers make healthcare decisions based upon a patient’s need  
for services rather than a self-serving desire to maximize financial  
profit. Our office will continue to investigate fraud allegations, in  
order to ensure that providers do not compromise the integrity of  
our public health care programs.”



1 As part of this settlement, Life Care has also entered into a five-  
 2 year chain-wide Corporate Integrity Agreement with  
 3 the Department of Health and Human Services Office of Inspector  
 4 General (HHS-OIG) that requires an independent review  
 organization to annually assess the medical necessity and  
 appropriateness of therapy services billed to Medicare.

5 "Therapy provided in skilled nursing facilities must be medically  
 6 reasonable and necessary, and we will continue to vigorously  
 7 investigate companies that subject their residents to needless and  
 8 unreasonable therapy," said HHS Inspector General Daniel R.  
 Levinson. "The corporate integrity agreement with Life Care is  
 designed to ensure that it only provides therapy based on the  
 individual needs of each resident."

9 The settlement, which was based on the company's ability to pay,  
 10 resolves allegations originally brought in lawsuits filed under the  
 11 qui tam, or whistleblower, provisions of the False Claims Act by  
 12 Tammie Taylor and Glenda Martin, former Life Care  
 13 employees. The act permits private parties to sue on behalf of the  
 government for false claims for government funds and to receive a  
 share of any recovery. The government may intervene and file its  
 own complaint in such a lawsuit, as it has done in this case. The  
 whistleblower reward in this case will be \$29 million.

14 The settlement illustrates the government's emphasis on combating  
 15 health care fraud and marks another achievement for the Health  
 16 Care Fraud Prevention and Enforcement Action Team (HEAT)  
 17 initiative, which was announced in May 2009 by the Attorney  
 18 General and the Secretary of Health and Human Services. The  
 19 partnership between the two departments has focused efforts to  
 20 reduce and prevent Medicare and Medicaid financial fraud  
 through enhanced cooperation. One of the most powerful tools in  
 this effort is the False Claims Act. Since January 2009, the Justice  
 Department has recovered a total of more than \$31.6 billion  
 through False Claims Act cases, with more than \$19.2 billion of that  
 amount recovered in cases involving fraud against federal health  
 care programs.

21 This matter was handled by the Civil Division's Commercial  
 22 Litigation Branch, the U.S. Attorneys' Offices for the Eastern  
 23 District of Tennessee and the Southern District of Florida, and the  
 24 HHS-OIG, with assistance from the U.S. Attorneys' Offices for the  
 25 District of Colorado, the Middle District of Florida, the Northern  
 District of Georgia, the District of Massachusetts and the District  
 of South Carolina and NCI/Advance Med, a Medicare Zone  
 Program Integrity Contractor.

26 The two qui tam cases are docketed as United States ex rel. Taylor  
 27 v. Life Care Centers of America, Inc., No. 1:12-cv-64 (E.D. Tenn)  
 and United States ex rel. Martin v. Life Care Centers of America,

1 Inc., No. 1:08-cv-251 (E.D. Tenn). The case against Forrest L.  
 2 Preston is captioned United States v. Preston, No. 1:16-cv-113 (E.D.  
 3 Tenn). The claims resolved by the settlement are allegations only;  
 4 there has been no determination of liability.

## 5 B. DEFENDANT SUNRISE SERVICES, INC

6 “A Health Home is not a place. It is a set of services to support  
 7 individuals who have serious chronic conditions and more than one  
 8 medical or social service need. Health services can make things go  
 9 more smoothly between medical and social service support. This  
 10 may help reduce an individual’s visits to hospitals and emergency  
 11 room, support overall health, well-being, and self-care. Sunrise is a  
 12 care coordination agency for Health Home services. Sunrise care  
 13 coordinators meet with individuals and the agencies that support  
 14 them to keep things moving forward. If individuals go in and out of  
 15 the hospital, the care coordinator assist in planning transitions.”<sup>4</sup>

16 3. Defendant Sunrise provides “Health Homes” services under Medicare  
 17 and Medicaid funding --that includes: (a) comprehensive care management; (b)  
 18 care coordination and health promotion; (c) transition planning; (d) individual and  
 19 family support; (e) referral to relevant community and social support services; and  
 20 health education.

## 21 II. PARTIES

### 22 A. Relator

23 4. The Relator-Plaintiff is (registered counselor)<sup>5</sup> and a former Director

24 <sup>4</sup> See, Health Homes description by Sunrise accessible online at: <http://sunriseservices.com/health-homes/>.

25 <sup>5</sup> Relator’s CURRENT CREDENTIAL:

Type	Counselor Agency (Affiliated)
Registration (CAFR)	Credential Number: CG6015436
Issuing Agency	Department of Health – Washington
Status	Active
Effective Date	06/28/2010

1 of Social Services at Life Care Centers of America, Inc., d/b/a: Life Care Center  
 2 of Mount Vernon (LCCMV), Mount Vernon, Skagit County, Washington, from  
 3 October 25, 2016, until he was constructively discharged by submitting his  
 4 resignation effective August 31, 2018,<sup>6</sup> because of the discriminatory and  
 5 retaliatory<sup>7</sup> conduct by Life Care Centers of America, Inc.

6 5. The LCCMV is owned and operated by defendant Life Care. Relator  
 7 commenced (his qui tam complaining and concerns with Defendants: Life Care  
 8 and Sunrise during a brief window of his employment with Life Care and was  
 9 compelled to address false-allegations initiated by governmental and private  
 10 agency operatives with one objective in mind. To destroy Relator because of his  
 11 active participation in protected activities.

12 6. Specifically, Relator was subjected to addressing false-complaints  
 13 (ostensibly) filed against him involving two vulnerable adults identified as **Patient**  
 14 **A and B** respectively who were patients at Life Care Centers of America, Inc.,  
 15 from on or about October 2017 and July 2018 respectively. Both **Patients A and**  
 16 **B**<sup>8</sup> were utilized as retaliatory (battering ram) against Relator by State of  
 17 Washington, Department of Social and Health Services (DSHS), and its constituent  
 18 agencies: Adult Protective Services and Division of Developmental Disabilities  
 19 and Sunrise Services, Inc., and by extension, Life Care Centers of America, Inc.,  
 20 because of Relator's ongoing protected activities exposing FCA, HIPPA, and other  
 21 health and safety violations at the Life Care and Sunrise's ongoing fraudulent  
 22

23  
 24 <sup>6</sup> On or about September 2018, Relator filed an (EEOC Charge No. 551-2018-03535) and shortly  
 25 thereafter received a right-to-sue letter from the EEOC.

26 <sup>7</sup> Some of Relators complaints against Life Care focused on Title VII of the Civil Rights Act of 1964, as  
 27 amended, was filed with the U.S. Equal Employment Commission and crossed-filed with the Washington State  
 Human Rights Commission (WSHRC), under the Washington Law Against Discrimination.

<sup>8</sup> Patient A and B are pseudonyms and is being referred as such to protect HIPPA-privacy.

1 participation in the Health Home programs –specifically, relating to patients at the  
 2 LCCMV who were receiving services (contractually, through Sunrise or Northwest  
 3 Regional Council –who contracted with Sunrise and being paid through Medicare  
 4 and Medicaid through the Health Homes Programs).

5 **B. Defendant Life Care Centers of America, Inc.**

6 7. Defendant Life Care Centers of America, Inc., is headquartered in  
 7 Cleveland, Tennessee. Life Care is a for profit corporation that manages and/or  
 8 owns over 200 skilled nursing facilities across the country, including over 20  
 9 facilities in Tennessee. Medicare paid Life Care and its facilities over \$4.2 billion  
 10 from January 2006 through December 2011 for inpatient services at its nursing  
 11 facilities.

12 8. Defendant Life Care Centers of America, Inc., is a corporation  
 13 organized and existing under the laws of the State of Tennessee with its  
 14 headquarters in Cleveland, Tennessee while conducting business in the State of  
 15 Washington. According to its Corporate Disclosure Statement, Defendant Life  
 16 Care Centers of America, Inc., has no parent corporation and is not owned by any  
 17 publicly held corporation.

18 9. Forrest L. Preston is listed as Registered Agent of Life Care Centers  
 19 of America, Inc., a For-profit Corporation, established on 01/06/1976) according  
 20 to 2017 Annual Report filed on 03/06/2018, with the Division of Business  
 21 Services, Department of State (“SOS”) (SOS Control Number: 000018476), State  
 22 of Tennessee. Life Care’ corporate information accessible online at:  
 23 [https://tnbear.tn.gov/Ecommerce/FilingDetail.aspx?CN=00914723223804706902](https://tnbear.tn.gov/Ecommerce/FilingDetail.aspx?CN=009147232238047069021166175167182053107190077184)  
 24 [1166175167182053107190077184](https://tnbear.tn.gov/Ecommerce/FilingDetail.aspx?CN=009147232238047069021166175167182053107190077184).

25 **C. Defendant Sunrise Services, Inc.**



10. Defendant Sunrise Services, Inc., is headquartered in Everett, Washington. Sunrise is a for profit corporation that manages social and health services and implements the Health Home Programs under (contracts or subcontracts) through the Northwest Regional Council (NWRC),<sup>9</sup> and receiving Medicare and Medicaid funding to implement its Health Homes programs.

11. Ms. Sue Ann Closser, President, Owner, Governor/Agent of Sunrise Services, Inc., located: Post Office Box 2569 811 Madison Everett, Washington 98213. Telephone: (425) 347-3149 | Facsimile: (425) 347-0492. Sunrise's corporate information is accessible online at: <https://www.sos.wa.gov/corps/business.aspx?ubi=600231010>.

### III. RESPONDEAT SUPERIOR AND VICARIOUS LIABILITY

12. Any and all acts alleged herein to have been committed by Defendants Life Care and Sunrise (as a prospective employer) were committed by officers, directors, employees, representatives, or agents of those respective defendants, who at all times acted on behalf of the named defendants and within the course and scope of their employment.

### IV. ADMINISTRATIVE PREREQUISITES

13. Qui Tam Standing: Plaintiff/Relator Dahlstrom is a "person" and has standing to bring this qui tam on behalf of the United States of America and himself. See, Vermont Agency of Natural Resources v. United states ex rel. Stevens. 529 U.S. 765, 778, 120 S. Ct. 1858. 1865 (2000) ("a qui tam relator under FCA has Article II standing.").

<sup>9</sup> As an association of county governments, the Northwest Regional Council (NWRC) has been serving people of Island, san Juan, Skagit, and Whatcom Counties since 1971, is governed by a board of directors that is composed of two elected officials from each member county. The NWRC Governing Board, effective January 12, 2016. See, <https://www.nwrcwa.org/nwrc-governing-board/>.

14. Original Source: Plaintiff/Relator Dahlstrom is an "original source" of (some) or all of the information on which the allegations contained hereto are based, as the term is defined in 31 U.S.C. §3730(c)(4).

15. Disclosure Statement: Plaintiff/Relator Dahlstrom will simultaneously, with the filing this Complaint provide “Disclosure of Substantially All Material Evidence and Information” pursuant to 31 U.S.C. U.S.C. §3730(b)(2) to the United States Attorney Annette L. Hayes<sup>10</sup>, United States Attorney’s Office for the Western District of Washington.

16. Intervention by the United States Government: Should the United States Government elects to intervene in this action, pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(A), the Plaintiff/Relator Dahlstrom will provide every assistance in the execution of this Complaint.

17. Declination by the United States Government: In the alternative, should the United states Government decline to intervene in this action, pursuant to the False Claims, 31 U.S.C. § 3730(b)(4)(B), Plaintiff/Relator Dahlstrom is willing to continue the prosecution of this Complaint on behalf of the United States Government. Plaintiff/Relator will comply with the provisions as provided by 31 U.S.C. § 3730(c)(3).

## V. JURISDICTION AND VENUE

18. This Court has jurisdiction under 31 U.S.C. § 3730, and 28 U.S.C. §§ 1331 and 1345, and supplemental jurisdiction to entertain the common law causes of action under 28 U.S.C. § 1367(a). The Court may exercise personal jurisdiction over the defendant because the defendant resides and/or transacts business in the

<sup>10</sup> United States Attorney's Office 700 Stewart Street, Suite 5220 Seattle, WA 98101-1271  
Telephone: (206) 553-7970 Toll Free: (800) 797-6722 Fax Line: (206) 553-0882.

1 Western District of Washington or committed proscribed acts in this District.

2 19. Venue lies in this District pursuant to 31 U.S.C. § 3732(a), and 28  
3 U.S.C. § 1391(b) and (c), as the place where the defendant resides and where a  
4 substantial part of the events or omissions giving rise to the claims occurred.

## 5 VI. STATUTORY BACKGROUND

### 6 A. FALSE CLAIMS ACT<sup>11</sup>

7 20. Congress enacted the FCA in 1863 as a tool for “prevent[ing] and  
8 punish[ing] frauds upon the government of the United States.”<sup>12</sup> Concern with  
9 “frauds and corruptions practiced in obtaining pay from the government during the  
10 [Civil War]” motivated a forceful legislative response.<sup>13</sup> The Act created liability  
11 for a number of actions negatively affecting the government fisc,<sup>14</sup> set the damages  
12 and penalties that the government can recover,<sup>15</sup> and permitted private citizens to  
13 bring suit on behalf of the government.<sup>16</sup> FCA suits brought by private citizen  
14 plaintiffs are known as qui tam actions.<sup>17</sup> In 1986, Congress amended the FCA in  
15 order to better facilitate qui tam actions,<sup>18</sup> increase recoveries by raising the  
16 damages multiplier and civil penalties,<sup>19</sup> define the scienter requirement,<sup>20</sup> and  
17  
18

19 <sup>11</sup> Paragraphs 19-20 of this Qui Tam Complaint is directly quoted from: Peter T. Thomas, Trial by  
20 Formula: The Use of Statistical Sampling and Extrapolation in Establishing Liability Under the False Claims Act,  
21 74 Wash. & Lee L. Rev. Online 215 (2017), <https://scholarlycommons.law.wlu.edu/wlulr-online/vol74/iss1/11>,  
22 and through access online at:  
23 <https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=1089&context=wlulr-online>.

24 <sup>12</sup> Act of Mar. 2, 1863, ch. 67, 12 Stat. 696.

25 <sup>13</sup> CONG. GLOBE, 37th Cong., 3d Sess. 952 (1863).

26 <sup>14</sup> See Act of Mar. 2, 1863, ch. 67, § 1, 12 Stat. 696, (defining violations of the Act)

27 <sup>15</sup> See id. § 3 (establishing double damages, civil penalties, and costs to be assessed against private  
citizens found in violation of the statute and for court marshals in cases involving military personnel).

<sup>16</sup> See id. § 4 (allowing a private person to bring suit under the Act on behalf of the government).

<sup>17</sup> See Vt. Agency of Nat. Resources v. United States ex rel. Stevens, 529 U.S. 765, 768–69 (2000)  
(examining the ability of relators to bring qui tam actions on behalf of the government).

<sup>18</sup> See S. REP. NO. 99-345, at 2 (1986) (“The proposed legislation seeks . . . to provide the Government’s  
law enforcers with more effective tools . . .”). 32. See id. at 17 (increasing the damages multiplier and penalties).

<sup>19</sup> See id. at 17 (increasing the damages multiplier and penalties).

<sup>20</sup> See id. at 20 (clarifying the definition of knowledge under the FCA).

1 clearly establish preponderance of the evidence as the burden of proof for each  
 2 FCA element.<sup>21</sup> The Fraud Enforcement and Recovery Act of 2009 (FERA)<sup>22</sup> again  
 3 amended the FCA<sup>23</sup> to remove a judicially created requirement that false claims be  
 4 presented to a government employee.<sup>24</sup> This amendment also created a statutory  
 5 definition for the materiality element.<sup>25</sup> There have also been two more recent  
 6 amendments that are not relevant to statistical sampling.<sup>26</sup>

7  
 8 21. The FCA provides, in pertinent part, that any person who: (A)  
 9 knowingly presents, or causes to be presented, a false or fraudulent claim for  
 10 payment or approval; [or] (B) knowingly makes, uses, or causes to be made or  
 11 used, a false record or statement material to a false or fraudulent claim...is liable  
 12 to the United States Government [for statutory damages and such penalties as are  
 13 allowed by law]. 31 U.S.C. § 3729(a)(1)-(2) (2006), as amended by 31 U.S.C. §  
 14 3729(a)(1)(A)-(B).

15 22. The FCA further provides that “knowing” and “knowingly” (A) mean  
 16 that a person, with respect to information- (i) has actual knowledge of the  
 17 information; (ii) acts in deliberate ignorance of the truth or falsity of the  
 18 information; or (iii) acts in reckless disregard of the truth or falsity of the  
 19

20 <sup>21</sup> See id. at 30–31 (stating the burden of proof under the FCA).

21 <sup>22</sup> Pub. L. No. 111-21, § 4, 123 Stat. 1617, 1621 (2009) (amending the FCA).

22 <sup>23</sup> See id. (amending the FCA); see also S. REP. NO. 111-10, at 10–11 (2009) (altering language in the  
 23 FCA relied upon by the Supreme Court in *Allison Engine Co., Inc. v. United States ex rel. Sanders*, 553 U.S. 662  
 (2008), when determining that the FCA required an intent “to get” the government to pay the amount falsely  
 claimed).

24 <sup>24</sup> See *Allison Engine Co., Inc. v. United States ex rel. Sanders*, 553 U.S. 662, 668–69 (2008) (basing an  
 25 additional intent requirement that a defendant have the “purpose of getting a false . . . claim paid or approved by  
 the Government” on the language “to get”)

26 <sup>25</sup> See S. REP. NO. 111-10 at 12 (2009) (“[T]he new term ‘material’ is defined later in this section to  
 27 mean ‘having a natural tendency to influence, or being capable of influencing, the payment or receipt of money or  
 property.’”).

<sup>26</sup> See Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 10104(j)(2), 124 Stat. 119,  
 901 (2010) (modifying the public disclosure bar); Dodd-Frank Wall Street Reform and Consumer Protection Act,  
 Pub. L. No. 111-203, § 1079A(c), 124 Stat. 1376, 2079–80 (2010) (amending the FCA’s retaliation language).



1 information; and (B) require no proof of specific intent to defraud[.] 31 U.S.C. §  
 2 3729(b) (2006), as amended by 31 U.S.C. § 3729(b)(1) (West 2010). The FCA, at  
 3 31 U.S.C. § 3729(a)(1), provides that a person is liable to the United States  
 4 Government for three times the amount of damages which the Government sustains  
 5 because of the act of that person, plus a civil penalty of \$5,500 to \$11,000 per  
 6 violation.

### 7 **B. MEDICARE PROGRAMS IN SKILLED NURSING FACILITIES**

8 23. Congress established the Medicare Program in 1965 to provide health  
 9 insurance coverage for people age 65 or older and for people with certain  
 10 disabilities or afflictions. See 42 U.S.C. §§ 426, 426A.

11 24. The Medicare program is divided into four "parts" that cover different  
 12 services. Medicare Part A generally covers inpatient hospital services, home health  
 13 and hospice care, and skilled nursing and rehabilitation care.

14 25. Subject to certain conditions, Medicare Part A covers up to 100 days  
 15 of skilled nursing and rehabilitation care for a benefit period (i.e., spell of illness)  
 16 following a qualifying hospital stay of at least three consecutive days. 42 U.S.C. §  
 17 1395d(a)(2)(A); 42 C.F.R. §409.61(b), (c).

18 26. The conditions that Medicare imposes on its Part A skilled nursing  
 19 facility ("SNF") benefit include: (1) that the patient requires skilled nursing care or  
 20 skilled rehabilitation services (or both) on a daily basis, (2) that the daily skilled  
 21 services must be services that, as a practical matter, can only be provided in a  
 22 skilled nursing facility on an inpatient basis, and (3) that the services are provided  
 23 to address a condition for which the patient received treatment during a qualifying  
 24 hospital stay or that arose while the patient was receiving care in a skilled nursing  
 25 facility (for a condition treated during the hospital stay). 42 U.S.C. §  
 26  
 27

1 1395f(a)(2)(B); 42 C.F.R. § 409.31(b).

2 27. Medicare requires that a physician or certain other practitioners  
3 certify that these conditions are met at the time of a patient's admission to the  
4 nursing facility and to re-certify to the patient's continued need for skilled  
5 rehabilitation therapy services at regular intervals thereafter. See 42 U.S.C. §  
6 1395f(a)(2)(B); Medicare General Information, Eligibility, and Entitlement  
7 Manual, Ch. 4, § 40.3.

8 28. To be considered a skilled service, it must be "so inherently complex  
9 that it can be safely and effectively performed only by, or under the supervision of,  
10 professional or technical personnel," 42 C.F.R. § 409.32(a), such as physical  
11 therapists, occupational therapists, or speech pathologists. See 42 C.F.R. §  
12 409.31(a).

13 29. Skilled rehabilitation therapy generally does not include personal care  
14 services, such as the general supervision of exercises that have already been taught  
15 to a patient or the performance of repetitious exercises (e.g., exercises to improve  
16 gait, maintain strength or endurance, or assistive walking). See 42 C.F.R. §  
17 409.33(d). "Many skilled nursing facility inpatients do not require skilled physical  
18 therapy services but do require services, which are routine in nature. Those services  
19 can be performed by supportive personnel; e.g., aides or nursing personnel . . . ."  
20 Medicare Benefit Policy Manual, Chapter 8, § 30.4.1.1.

21 30. Medicare Part A will only cover those services that are reasonable and  
22 necessary. See 42 U.S.C. § 1395y(a)(1)(A); see also 42 U.S.C. § 1320c-5(a)(1)  
23 (providers must assure that they provide services economically and only when, and  
24 to the extent, medically necessary) ; 42 U.S.C. § 1320c-5(a)(2) (services provided  
25 must be of a quality which meets professionally recognized standards of health  
26  
27

1 care).

2 31. In the context of skilled rehabilitation therapy, this means that the  
3 services furnished must be consistent with the nature and severity of the patient's  
4 individual illness, injury, or particular medical needs; must be consistent with  
5 accepted standards of medical practice; and must be reasonable in terms of duration  
6 and quantity. See Medicare Benefit Policy Manual, Ch. 8, § 30.

7 32. In order to assess the reasonableness and necessity of those services  
8 and whether reimbursement is appropriate, Medicare requires proper and complete  
9 documentation of the services rendered to beneficiaries. In particular, the Medicare  
10 statute provides that: No payment shall be made to any provider of services or other  
11 person under this part unless there has been furnished such information as may be  
12 necessary in order to determine the amounts due such provider or other person  
13 under this part for the period with respect to which the amounts are being paid or  
14 for any prior period. 42 U.S.C. § 1395l(e).

### 15 C. WASHINGTON FINANCIAL ALIGNMENT DEMONSTRATION 16 UNDER MEDICARE AND BIRTH OF HEALTH HOMES 17

18 33. On October 25, 2012,<sup>27</sup> the U.S. Department of Health and Human  
19

20  
21 <sup>27</sup> See additional supporting documents regarding CMS and the State of Washington engagement from  
22 October 2012 through the present, as annexed below:

- 23 (a) <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/Downloads/WAMFFSFDA.pdf>.
- 24 (b) [https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/Downloads/WAMFFSFDA\\_Amendment.pdf](https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/Downloads/WAMFFSFDA_Amendment.pdf).
- 25 (c) <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/Downloads/WAMFFSMOU.pdf>.
- 26 (d) <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/Downloads/WashingtonProposal.pdf>.
- 27

Services announced that the state of Washington would become the first state to partner with the Centers for Medicare & Medicaid Services (CMS) in the Financial Alignment Initiative to test a Managed Fee for Service (MFFS) model for providing Medicare-Medicaid enrollees with a more coordinated, person-centered care experience. Through the demonstration, Washington is building upon its Medicaid health home model, targeting Medicare-Medicaid enrollees with chronic health conditions. The demonstration began on July 1, 2013.

34. Individuals receiving Health Home services are assigned a Health Home care coordinator who will partner with eligible individuals, their families, doctors, mental health providers, chemical dependency services, long-term services and supports and other agencies to ensure coordination across these systems of care. In addition, the health home coordinator will make in-person visits and be available by telephone to help the individual, their families, and service providers to: (a) Conduct screenings to identify health risks and referral needs; (b) Set goals that will improve beneficiaries' health and service access; (c) Improve management of health conditions through education and coaching; (d) Make changes to improve beneficiaries' ability to function in their home and community and their self-care abilities; (e) Access the right care, at the right time and place;

(e) <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/Downloads/WAFirstAnnualEvalReport.pdf>.

(f) <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/Downloads/WAFirstAnnualEvalReportAppendices.pdf>.

(g) <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/Downloads/WAEvalMedicareCostYr1FinalYr2Preliminary072817.pdf>, and

(h) <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/Downloads/WAEvalPlan.pdf>.



1 (f) Successfully transition from hospital to other settings and get necessary follow-  
 2 up care; and (g) Reduce avoidable health care costs.

3 35. Additionally, the referrals for individuals who meet the risk modeling  
 4 criteria (PRISM) are generated by the Health Care Authority (HCA) and sent to  
 5 local Care Coordination Organizations (CCOs). The CCOs then reach out to the  
 6 individuals to offer Health Home services.

#### 7 **D. STATEMENT OF INITIATIVE<sup>28</sup>**

8  
 9 36. CMS and the State agree to begin this Managed Fee-for-Service  
 10 Financial Alignment Demonstration on July 1, 2013, and continue until December  
 11 31, 2018, unless extended or terminated pursuant to the terms and conditions in  
 12 Section V or VI, respectively, of this Agreement.

13 37. To establish a Federal-State partnership between the Centers for  
 14 Medicare & Medicaid Services (CMS) and the State of Washington (the  
 15 Washington State Health Authority/Washington State Department of Social &  
 16 Health Services) to implement HealthPath Washington: A Medicare and Medicaid  
 17 Integration Project, Managed Fee-for-Service Model (Demonstration) to better  
 18 serve individuals eligible for both Medicare and Medicaid ("Medicare-Medicaid  
 19 enrollees" or "beneficiaries"). The Federal-State partnership will provide the State  
 20 with a new opportunity to establish a care management program for Medicare-  
 21 Medicaid enrollees meeting high-cost/high-risk criteria that will coordinate  
 22

23  
 24 <sup>28</sup> **Demonstration Authority:** Under the authority at section 1115A of the Social Security Act ("Act"),  
 25 the Center for Medicare and Medicaid Innovation is authorized to "...test payment and service delivery models  
 26 ...to determine the effect of applying such models under [Medicare and Medicaid]." Such models include but are  
 27 not limited to the models described in section 1115A(b)(2)(B) of the Act. Section 1115A(d)(1) authorizes the  
 Secretary to waive such requirements of titles XI and XVIII of the Act and of Sections 1902(a)(1), 1902(a)(13),  
 and 1903(m)(2)(A)(iii) of the Act as may be necessary solely for purposes of testing models described in section  
 1115A(b). See also, [https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination-  
 Office/FinancialAlignmentInitiative/Downloads/WAMFFSMOU.pdf](https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/Downloads/WAMFFSMOU.pdf).

1 services across Medicare and Medicaid and allow the State and the Federal  
 2 government to benefit from savings resulting from improvements in quality and  
 3 reductions in costs. CMS plans to begin this Managed Fee-for-Service Financial  
 4 Alignment Demonstration on April 1, 2013, and continue until December 31, 2016,  
 5 unless terminated or extended pursuant to the terms and conditions of the Final  
 6 Demonstration Agreement. The initiative is intended to alleviate fragmentation and  
 7 improve coordination of services for high-cost, high-risk Medicare-Medicaid  
 8 enrollees served primarily in fee-for-service systems of care. Improved  
 9 coordination is intended to improve beneficiary outcomes and reduce overall costs  
 10 over time for the State and the Federal government. (See Appendix 1 for definitions  
 11 of terms and acronyms used in this MOU.)  
 12

13 38. Under this Demonstration, beneficiaries decide whether to receive  
 14 health home services. With the exception of the addition of Medicaid health home  
 15 services, this Demonstration does not change Medicare or Medicaid benefits in any  
 16 way, nor does it affect an individual's choice of Medicare and Medicaid providers.  
 17 Health home services will not be provided unless and until a beneficiary elects to  
 18 receive them. The process by which beneficiaries will be identified as eligible for  
 19 and elect to receive health home services is as follows (See III.B and Appendix 7  
 20 for additional information):

21 **Beneficiary Eligibility:** On a monthly basis, the State will identify  
 22 which beneficiaries meet the eligibility criteria to receive health  
 23 home services (See III.B for additional detail).

24 **Enrollment:** Effective the first of the following month, the State will  
 25 enroll those beneficiaries (excepting certain populations as  
 26 specified in III.B.1) with a qualified Health Home Network. This  
 27 step requires no action by beneficiaries and does not change their

1 eligibility for other services or choice of Medicare or Medicaid  
2 providers in any way.

3 **Assignment:** Following enrollment, the Health Home Lead Entity  
4 will assign enrolled beneficiaries to one of their subcontracted  
5 Health Home Care Coordination Organizations.

6 **Outreach and Engagement:** The Health Home Care Coordination  
7 Organization will perform outreach and engagement activities to  
8 those beneficiaries it has been assigned.

9 **Health Action Plan and Health Home Services:** Following outreach  
10 and engagement, a beneficiary will have the opportunity to elect  
11 whether to receive health home services, through completion of a  
12 Health Action Plan (a beneficiary-prioritized plan identifying what  
13 the beneficiary plans to do to improve his/her health). If a  
14 beneficiary elects to receive health home services, delivery of health  
15 home services to the beneficiary will begin, as will provider  
reimbursement for these services. (See Appendix 1 for definitions  
of terminology used above.)

16 39. Since October 12, 2012<sup>29</sup> through the present, CMS, the State of  
17 Washington, Sunrise and NWRC and other organizations have actively  
18 participated in the Health Homes programs –insisting that it has saved the United  
19 States Government millions of dollars in (SAVINGS) –thus reducing unreasonable  
20 or extended stays in hospitals and SNF. However Sunrise's claims are deceiving.

21 **VII. RELATOR'S DISCOVERY OF DEFENDANTS' FRAUDULENT**  
22 **OR RETALIATORY CONDUCT**

23  
24 40. Namely, in or around May 2018 through mid-August 2018, Relator  
25 actively questioned and reported his concerns to Sunrise, NWRC (Mr. Peter  
26

27 <sup>29</sup> *Id.*

1 Acosta) and Life Care about the fraudulent claims and basis for continuation of  
2 Health Home-type services being provided to patients who have either no  
3 likelihood for returning to their original Health Homes or transitioning to lower  
4 cost living situation.

5 41. Specifically, Patient B was identified by Relator as just a “tip-of-the  
6 iceberg” for his contention that Patient B at the outset upon admission to the Life  
7 Care was subject to Health Home scams and that Medicare and Medicaid paid  
8 hundreds of thousands of dollars to maintain the “illusion” that the Patient B was  
9 otherwise and continuing to be eligible to remain in her (forever) Health Home  
10 arrangement despite sever comorbid conditions, for which the Health Home did  
11 not wish to perpetuate, however, Sunrise attempted to never sunset on their Health  
12 Home patients, thus, continuing to collect Medicare and Medicaid dollars as  
13 illustrated by their conduct with regards to Patient B.  
14

15 42. Further, Sunrise advocated for extensive and expensive interventions  
16 on behalf of Patient B –which clearly was incompatible with the lawful programs  
17 implemented to eliminate such waste, fraud, and abuse of limited Medicare and  
18 Medicaid resources.

19 43. The Relator informed officials at Sunrise and Life Care that the  
20 admission diagnosis was virtually the same diagnosis for which Patient B was  
21 paraded around through multiple hospitalizations in and out of her Health Home,  
22 hospital(s), skilled nursing facilities, and the like, until Patient B was  
23 compromised.

24 44. For example: Mr. Peter Acosta a representative-employee of  
25 Northwest Regional Council who directly interacted with Relator on a frequent  
26 basis, between the months of January to July 2018, at Life Care. During one of  
27



1 these contacts, Mr. Acosta reiterated to Relator that he was involved in the Health  
 2 Home Program and had the friendly ears of the *State of Washington* —both the  
 3 Office of the Attorney General and the Legal Services Department at the  
 4 Department of Health. Relator informed Mr. Acosta on several occasions while he  
 5 visited the Life Care —that he (Relator) was concerned about the over-exaggeration  
 6 of Sunrise’s role in the Health Home programs —ostensibly feeding of the Medicare  
 7 and Medicaid —without any real expectations that patients (some of them with sever  
 8 dementia was ever going to walk out of Life Care alive); but Sunrise and NWRC  
 9 by extension was providing duplicative or worthless services —in contravention to  
 10 FCA.

11  
 12 45. However, despite the fact that Sunrise’s efforts to the contrary  
 13 attempted to place false-light on their miserable failure to honestly address the  
 14 fraud they were perpetrating against the Government in the form of receiving  
 15 payments for providing “sham” Health Home type-care, but also refused to  
 16 acknowledge that their schemes additionally and eventually compromised an  
 17 already vulnerable (Patient B) at the outset. Specifically, Patient B suffered serious  
 18 medical conditions prior to ever being admitted to Life Care, but Sunrise was  
 19 motivated more by avarice and greed to continue to create the appearance that their  
 20 HEALTH HOME was actually achieving its objective to reduce or minimize cost  
 21 to the government by otherwise reducing hospital and skilled nursing home stays.

22 46. Plainly, Patient B was eligible for long-term skilled nursing care upon  
 23 discharge from repeated hospitalizations because of comorbid conditions for which  
 24 a return home with COPES services were inadequate prior to and continuing until  
 25 Patient B’s death in July 2018.

26 47. Immediately, upon the death of Patient B, Sunrise seeking “whistle-  
 27

blower” protections filed false-charges against Relator with the State of Washington, Department of Health (DOH), with assistance from the State of Washington, Department of Social and Health Services (DSHS) employee, Tia Y. Mathews, Case Resource Manager, Division of Developmental Disabilities – dressing their complaint as “negligence of patient” by Relator while Patient B was at Life Care and then subsequently with the death of Patient B.

48. Specifically, Sunrise sought to distance themselves from the death of Patient B, by falsely scapegoating Relator as the negligent party to evade detection for their ongoing FCA violations, perpetrated upon the Federal Government.

49. What Sunrise and DSHS failed to neglect (and in haste) to report to the DOH accurately in its (whistle-blower) complaint filed against Relator that Patient B’s cause of death (as stated in the death certificate) was attributed to: (A) Septic shock, and (B) Aspiration Pneumonia. Other conditions contributing to the Death: is listed as: Staphylococcal Bacteremia (2 days); and Acute Respiratory Failure (2 days). Clearly, Relator as Director of Social Services at Life Care was incapable of curing –because he lacked medical credentials to prevent the alleged neglectful death of Patient B.

50. Note that Patient B’s Certificate of Death do not list Relator has having contributed to the death of Patient. Clearly, the conduct of both Sunrise and DSHS is not protected under Right of Free speech accorded 1<sup>st</sup> Amendment protections<sup>30</sup> nor does it provide safe-harbor under the “whistle-blower”<sup>31</sup> protections from defamation under Washington law.

51. Further, Relator brings this FCA action against Defendant Sunrise

<sup>30</sup> See also analysis of the intersection between Anti-SLAPP Statute, defamatory conduct, and Free Speech under the 1<sup>st</sup> Amendment, In re: Clifford v. Trump, --- F.Supp.3d --- (2018). Note: Appeal filed by STEPHANIE CLIFFORD v. DONALD TRUMP, 9<sup>th</sup> Cir., October 16, 2018. 2018 WL 4997419.

<sup>31</sup> See, Washington Administrative Code (WAC) WAC 246-15-010(9).

Services, Inc., to recover millions of dollars that flows through their active participation in the Health Homes Care Programs, causing Medicare programs to pay for services that were not covered or duplicative, not reasonable and necessary, and may actually be resulting in the increasing or worsening of medical conditions of patients that are actually properly served through hospitalizations and subsequent placements into long-term skilled nursing care facilities. Instead Defendant Sunrise knowingly allow patients to deteriorate in their Health Home Program due to contractual obligations mandating that these severely compromised patients remain in their own home –despite experiencing numerous visits in and out of hospitals or SNF. Relator’s concerns regarding the FCA violations (*i.e.*, patients served by Sunrise’s Health Home Programs and others) to his immediate supervisor at Life Care Centers of America, Inc., which was met immediately with retaliatory animus toward him.

52. In addition, Relator was subjected to retaliation for having brought his complaint to Sunrise Services’ employees regarding alleged violations of the FCA, by being falsely charged with the “negligent death” of a patient at Life Care Centers of America, Inc.

53. Sunrise is also made defendant for *qui tam* violations through their involvement in the Health Home Programs, , to make overpayments<sup>32</sup> of Medicare, Medicaid, and other benefits.

54. Relator Dahlstrom also brings parallel claims under state law on alleges that he was unlawfully denied employment in retaliation for his whistleblowing actions against both Life Care and Sunrise while employed at the

<sup>32</sup> See *United States v. Life Care Centers of Am., Inc.*, 114 F. Supp. 3d 549, 560 (E.D. Tenn. 2014) (listing previous cases where a party attempted to use statistical sampling and extrapolation in establishing liability under the False Claims Act).

1 latter.

2 55. Upon information and belief, Relator's complaint does not violate the  
3 FCA's 'first-to-file bar,' which prohibits a person from belonging a "related action  
4 when an FCA suit is "pending." 31 U.S.C. § 3730(b)(5).

5 56. Additionally, On or about August 1, 2018, Relator Raju A.T.  
6 Dahlstrom, while employed by **Life Care Centers of America, Incorporated**, as  
7 Director of Social Services, notified his immediate supervisor, Jennifer Kay Scott,  
8 Executive Director that he was contemporaneously engaged in vindicating and/or  
9 exercising his rights pursuant to:

- 10 (a) Title VII of the Civil Rights Act of 1964, as  
11 amended, codified at 42 U.S.C. § 2000e *et seq.*,  
12 ("Title VII");  
13 (b) Washington Law Against Discrimination  
14 ("WLAD"), Wash. Rev. Code §§ 49.60.010–  
15 49.60.505; and  
16 (c) False Claims Act ("FCA"), 31 U.S.C. §§ 3729-33.

17 57. ***Specifically***, Relator directly observed Defendant SUNRISE  
18 SERVICES, INCORPORATED, A Washington For-Profit Corporation, justify  
19 their Health Home programs by unnecessarily prolonging its involvement in  
20 Patient B's care, and justifying their conduct and collecting Medicare and  
21 Medicaid monies –while along violating the False Claims Act ("FCA"), 31 U.S.C.  
22 §§ 3729-33, by submitting directly or indirectly (via NWRC) to the United States  
23 false or fraudulent claims for payment.

#### 24 **ADDITIONAL STATUTORY BACKGROUND**

25 58. The FCA imposes significant penalties on any person who  
26 "knowingly presents, or causes to be presented, a false or fraudulent claim for  
27 payment or approval" to the Government or any person who "knowingly makes,



1 uses, or causes to be made or used, a false record or statement material to a false  
2 or fraudulent claim.” 31 U.S.C. § 3729(a)(1)(A)-(B).

3 59. Rather than rely solely on federal enforcement of these provisions,  
4 Congress decided to deputize private individuals, encouraging them to come  
5 forward with claims on behalf of the Government in the form of *qui tam* suits. *Qui*  
6 *tam* provisions are not new to federal law, appearing as early as the first Congress.  
7 J. Randy Beck, *The False Claims Act and the English Eradication of Qui Tam*  
8 *Legislation*, 78 N.C. L. REV. 539, 554 n.54 (2000). In fact, the FCA and its *qui*  
9 *tam* provisions emerged “midway through the Civil War, in response to frauds  
10 perpetrated in connection with Union military procurement.” *Id.* at 555.

11 60. Under the FCA’s *qui tam* provisions, “a private party, called the  
12 relator, challenges fraudulent claims against the [G]overnment on the  
13 [G]overnment’s behalf, ultimately sharing in any recovery.” *See* 31 U.S.C. §  
14 3730(b). The relator may be awarded up to thirty percent of the proceeds ultimately  
15 recovered. 31 U.S.C. § 3730(d). Relators need not allege personal injury but  
16 instead sue “to remedy an injury in fact suffered by the United States.” *Vt. Agency*  
17 *of Nat. Res. v. United States ex rel. Stevens*, 529 U.S. 765, 771 (2000).

18 61. The Government may intervene in any *qui tam* action, taking over  
19 from the relator, and, in that event, limiting the relator’s share of the recovery to at  
20 most twenty-five percent. 31 U.S.C. § 3730(b)(2), (d)(1). The FCA provides that a  
21 “copy of the complaint . . . shall be served on the Government.” *Id.* § 3730(b)(2).  
22 “The complaint shall be filed in camera, shall remain under seal for at least 60 days,  
23 and shall not be served on the defendant until the court so orders. The Government  
24 may elect to intervene and proceed with the action within 60 days after it receives  
25 both the complaint and the material evidence and information.” *Id.* Moreover, the  
26  
27

1 "Government may, for good cause shown, move the court for extensions of the  
 2 time during which the complaint remains under seal." *Id.* § 3730(b)(3). "Before  
 3 the expiration of the 60-day period or any extensions," however, the Government  
 4 shall "(A) proceed with the action, in which case the action shall be conducted by  
 5 the Government; or (B) notify the court that it declines to take over the action, in  
 6 which case the person bringing the action shall have the right to conduct the  
 7 action." *Id.* § 3730(b)(4).

8 62. Sunrise is a social services and mental health agency. Relator, a  
 9 former Life Care Centers of America, Inc., employee, alleges that in the course of  
 10 his employment he became aware that, from at least May 2018 (and continuing).

11 63. As a *qui tam* statute, the FCA permits private persons, known as  
 12 "relators," to bring actions to recover damages on behalf of the United States. 31  
 13 U.S.C. § 3730(b). The statute includes other procedural requirements. *First*, the  
 14 statute provides that a relator must file his or her complaint under seal so as to  
 15 permit the government to decide whether it wants to intervene. *See id.* §  
 16 3730(b)(2). At the Government's request, the seal can remain in effect indefinitely;  
 17 moreover, even if the Government declines to intervene at the outset, it may do so  
 18 at any point later in the litigation upon a showing of good cause. *See id.* §  
 19 3730(b)(3). *Second*, certain provisions of the statute provide incentives for relators  
 20 to file quickly, while balancing the Government's interest in notice with concerns  
 21 about parasitic or opportunistic law suits. The "first-to-file" bar, for instance, states  
 22 that once an action has been brought, "no person other than the Government may  
 23 intervene or bring a related action based on the facts underlying the pending  
 24 action." *Id.* § 3730(b)(5). Relatedly, the "public disclosure" bar generally requires  
 25 courts to "dismiss an action" if "substantially the same allegations or transactions  
 26  
 27

1 as alleged in the action or claim were publicly disclosed” at an earlier date. *Id.* §  
 2 3730(e)(4)(A). In this particular filing, Relator believes that he is uniquely in the  
 3 position to observe the illegal conduct of Sunrise –in their attempts to bulk tax  
 4 payers by falsely claiming that Patient B was just going to walk out of life care and  
 5 return to the Health Homes program. Sunrise actions were deliberately calibrated  
 6 to deceive the Government.

7 64. The False Claims Act imposes civil liability on individuals who  
 8 knowingly defraud the United States of America. *Universal Health Servs., Inc. v.*  
 9 *United States ex rel. Escobar*, 136 S. Ct. 1989, 1995 (2016). The Act may be  
 10 enforced either by the government or, under its *qui tam* provision, by a private  
 11 person acting as a “relator” on the government’s behalf. 31 U.S.C. § 3730(b)(1);  
 12 *State Farm Fire & Cas. Co. v. United States ex rel. Rigsby*, 137 S. Ct. 436, 440  
 13 (2016). When a private party brings a *qui tam* suit, the complaint is sealed (and  
 14 thus unknown to the defendant) but served on the government with a summary of  
 15 all material evidence. 31 U.S.C. § 3730(b)(2); *Kellogg Brown & Root Servs., Inc.*  
 16 *v. United States ex rel. Carter*, 135 S. Ct. 1970, 1973 (2015).

17 65. Upon learning of a *qui tam* action, the government has multiple  
 18 options for action. One of those options is taking over the lawsuit, and, if the  
 19 government does take control, the relator will receive 15% to 25% of any recovery.  
 20 31 U.S.C. § 3730(d)(1). The government also can decline to participate directly,  
 21 and, if it chooses that option, the relator can continue prosecuting the case on the  
 22 government’s behalf. *See* 31 U.S.C. § 3730(b)(4)(B), (c)(3); *Kellogg Brown &*  
 23 *Root Servs., Inc.*, 135 S. Ct. at 1973; *Stoner v. Santa Clara Cty. Office of Educ.*,  
 24 502 F.3d 1116, 1126–27 (9th Cir. 2007).

25 66. A relator who successfully prosecutes a *qui tam* action without  
 26  
 27

1 government involvement will receive 25% to 30% of the recovery. 31 U.S.C. §  
 2 3730(d)(2). A third option available to the government is seeking recovery for  
 3 fraud through an "alternate remedy," including "any administrative proceeding to  
 4 determine a civil money penalty." 31 U.S.C. § 3730(c)(5). When the government  
 5 pursues an "alternate remedy," the relator has the same rights in that proceeding as  
 6 if the qui tam action had continued, including the right to recover a percentage of  
 7 any recovery. 31 U.S.C. § 3730(c)(5); *United States v. Sprint Commc'ns, Inc.*, 855  
 8 F.3d 985, 990 (9th Cir. 2017); *United States ex rel. Rille v.*  
 9 *PricewaterhouseCoopers LLP*, 803 F.3d 368, 373 (8th Cir. 2015).

10  
 11 67. Washington is one of 15 states that received an 18-month planning  
 12 grant from the Centers for Medicare and Medicaid Services (CMS) to develop a  
 13 multi-phased design and implementation plan for innovative service delivery  
 14 models that integrate care for individuals receiving services from both Medicare  
 15 and Medicaid. The grant goals are to improve the care experience and health  
 16 outcomes of individuals served under these programs and decrease overall costs.  
 17 This grant provides an opportunity for the State and CMS to design integrated care  
 18 and a shared savings plan that would align incentives to ensure the right care, for  
 19 the right person, at the right time.

20 68. Governance of the grant is shared between The Washington  
 21 Department of Social and Health Services, Aging and Disability Services  
 22 Administration (DSHS/ADSA) and The Health Care Authority (HCA). Together  
 23 with stakeholders, the two agencies have collaborated extensively over the grant  
 24 period to develop new strategies to improve health care, services and supports and  
 25 their associated costs. The HCA is the Medicaid agency responsible for purchasing  
 26 Medicaid medical services. ADSA is responsible for purchasing, program and  
 27



1 service development for mental health, chemical dependency, long term services  
 2 and supports and services to individuals with developmental disabilities. The  
 3 project has been informed by a broad range of stakeholders who have participated  
 4 in a wide variety of engagement activities throughout the past ten months.

5 69. The state uses a standardized assessment for beneficiaries receiving  
 6 long term services and supports and services for individuals with developmental  
 7 disabilities that embeds evidence-based screening and risk-based protocols to  
 8 support care coordination across service domains. These include: PHQ-9  
 9 depression screen, CAGE alcohol and drug screen, diagnosis, medications and  
 10 medical treatments, and use of the minimum data set to determine need for activity  
 11 of daily living assistance or changes in health status. In addition, nursing protocols  
 12 are triggered to ensure in person or telephone consultation with an RN. Nursing  
 13 protocols in the assessment are triggered based upon: complicated medication  
 14 regimens; unstable or changing diagnosis; untreated pain management issues;  
 15 nutritional status or weight issues; and risk of skin breakdown, while patients or  
 16 clients are served inside their Health Homes.

18 **ADDITIONAL RETALIATORY CONDUCT**  
 19 **BY DEFENDANT LIFE CARE CENTERS OF AMERICA, INC.,**  
 20 **AGAINST RELATOR RAJU A.T. DAHLSTROM**

21 70. Plaintiff Raju A.T. Dahlstrom worked as a Social Services Director  
 22 for Defendant Life Care Centers of America, Inc., from October 25, 2016 until he  
 23 resigned (constructively discharged or wrongfully terminated) on August 31, 2018.

24 71. As Social Services Director of Life Care Centers of America, Inc.,  
 25 Mount Vernon facility, Plaintiff performed satisfactorily, with no adverse or  
 26 disciplinary actions on his employment record while under the direct supervision  
 27 of his hiring supervisor, Brandon Matrone, MSW., LNHA (Licensed Nursing

1 Home Administrator). Plaintiff's responsibilities included:<sup>33</sup> "The Social Services  
2 Director plans, organizes, develops, and directs the overall operation of the Social  
3 Services department to ensure all medically-related emotional and social needs of  
4 patients are met in accordance with all applicable laws, regulations,<sup>34</sup> and Life Care  
5 standards."<sup>35</sup>

6 72. **Brandon Matrone**, Executive Director of Life Care Centers of  
7 America, Inc., Mount Vernon, Washington facility, was Plaintiff's front-line  
8 supervisor from on or about October 25, 2018 to on or about May 9, 2018.  
9 Administrator Matrone treated Plaintiff with professionalism, respect and dignity  
10 and never subjected him to any adverse, abusive or retaliatory conduct at Life Care.  
11

12 73. **Nancy E. Butner**, Northwest Regional Vice President and a Licensed  
13 Nursing Home Administrator at Life Care Centers of America, Inc., (Mount  
14 Vernon facility), was Plaintiff's front-line supervisor (as Interim Executive  
15 Director and Vice President -Corporate) from on or about May 10, 2018 to on or  
16 about August 31, 2018. Plaintiff alleges that Ms. Butner had direct and/or  
17 constructive knowledge of Plaintiff's participation in protected activities, resulting  
18 in her subjecting him to a (retaliatory) hostile work environment and retaliated  
19 against him for engaging in protected activity. Plaintiff complained about the  
20 discriminatory and retaliatory working conditions directly to Ms. Butner, but she  
21

22 <sup>33</sup> Note: On or about 12/06/2016, Human Resources, within Life Care Centers of America, Inc., revised their Social Services  
23 Director (SSD) Job Description (Primary).

24 <sup>34</sup> On or about October 4, 2016, the U.S. Department of Health and Human Services (DHHS) Centers for Medicare and  
25 Medicaid Services (CMS) issued revised (final rules) regulations specifying the requirements that long-term care facilities must meet  
26 to participate in the Medicare and Medicaid programs, effective November 28, 2016. See: 81 Fed. Reg. 68,688-01 (Oct. 4, 2016). 42  
27 CFR Parts 405, 431, 447, 482, 483, 485, 488, and 489. Accessible online at: Government Publishing Office, at:  
<https://www.gpo.gov/fdsys/pkg/FR-2016-10-04/pdf/2016-23503.pdf>.

<sup>35</sup> See: Life Care Centers of America – Code of Conduct by Forrest L. Preston, Chairman, Life Care Centers of America,  
Inc. | Life Care Physician Services, LCC. Revised September 2014 – Code of Conduct. Accessible at:  
<https://lcca.com/downloads/Code-of-Conduct-2014.pdf>.

1 took no meaningful action in response.

2 74. **Tara Lyn Travers**, Interim Executive Director and a Licensed  
 3 Nursing Home Administrator at Life Care Centers of America, Inc., (Mount  
 4 Vernon facility), was Plaintiff's front-line supervisor from on or about mid-May  
 5 2018 to on or about August 3, 2018. Plaintiff alleges that Ms. Travers had direct  
 6 and/or constructive knowledge of Plaintiff's participation in protected activities,  
 7 resulting in her subjecting him to a (racially/national origin) hostile work  
 8 environment and retaliated against him for engaging in protected activity. Plaintiff  
 9 complained about the discriminatory and retaliatory working conditions directly to  
 10 Ms. Travers, but she took no meaningful action in response.

11 75. **Jennifer Kay Scott**, Interim Executive Director and a Licensed  
 12 Nursing Home Administrator at Life Care Centers of America, Inc., (Mount  
 13 Vernon facility), was Plaintiff's front-line supervisor from on or about mid-July  
 14 2018 to on or about August 31, 2018. Plaintiff alleges that Ms. Scott had direct  
 15 and/or constructive knowledge of Plaintiff's participation in protected activities,  
 16 resulting in her subjecting him to a (racially/national origin) hostile work  
 17 environment and retaliated against him for engaging in protected activity. Plaintiff  
 18 complained about the discriminatory and retaliatory working conditions directly to  
 19 Ms. Scott, but she took no meaningful action in response.

20 76. **Kelly Falcon**, Vice President –Human Resources Department, Life  
 21 Care Centers of America, Inc., located in Cleveland, Tennessee. Plaintiff alleges  
 22 that Ms. Falcon had direct and/or constructive knowledge of Plaintiff's  
 23 participation in protected activities, resulting in her subjecting him to a (retaliatory)  
 24 hostile work environment and retaliated against him for engaging in protected  
 25 activity. Plaintiff complained about the discriminatory and retaliatory working  
 26  
 27

1 conditions directly to Ms. Falcon through Life Care's "Compliance Issue  
2 Reporting" an online vendor at: [www.LCCA.ethicspoint.com](http://www.LCCA.ethicspoint.com). However, since  
3 Plaintiff's utilization of the online processes, he was subjected to additional  
4 retaliation resulting in his constructive discharge from Life Care Centers of  
5 America, Inc., on August 31, 2018.

6 77. Ms. Falcon, Ms. Butner, Ms. Travers, and Ms. Scott all exercised –  
7 decisional making authority) direct, simultaneous, or overlapping supervisory  
8 authority over Plaintiff (from May-August 2018), resulting in his retaliatory  
9 constructive discharge.

10 78. Further, Ms. Butner, Ms. Travers, and Ms. Scott also share in the  
11 responsibility for subjecting Plaintiff to (various or increasing degrees of hostility  
12 and retaliation (with creativity and deceitfulness) –each and every time he  
13 exercised his rights to protest discrimination, retaliation, and/or when he engaged  
14 in protected activities (i.e., reporting or complaining of Life Care's threatened  
15 administrative discrimination or retaliation against women and other ethnic  
16 minorities ) for whistle-blowing about the health, safety, and welfare of patients,  
17 and other violations of Life Care's Code of Conduct, federal or state rules or  
18 regulations, (i.e., HIPPA privacy rules, poor infection controls, etc.), at Life Care  
19 Centers of America, Inc., at the Mount Vernon, Washington facility.

20 79. On or about mid-May 2018, Plaintiff requested and was refused  
21 access to the "**Blue Book**", from Ms. Butner and Ms. Travers. Specifically,  
22 Plaintiff as Director of Social Services is responsible for receiving: comments,  
23 complaints, and complements (which is contained on Life Care's "Blue Card"  
24 which is an in-house investigative tools for addressing patient concerns which can  
25 be completed by patients, immediate and extended family members, staff, and  
26  
27



1 stakeholders).

2  
3 **Plaintiff Complaints of HIPPA – Patient Privacy Violations**

4  
5 80. On or about (Saturday) June 16, 2018, Plaintiff worked as Manager  
6 of the Day (“MOD”), and upon arriving at work reported to Ms. Travers that the  
7 Administrative offices landlines, facsimile lines were reportedly out-of-order.  
8 While addressing the issues of dead telephone lines, Plaintiff was ordered to  
9 implement the MOD Guide (euphemistically referred to as the “MOD” or “Purple  
10 Book”) by Ms. Travers who designed and expected its full implementation for  
11 managers on weekend and holiday shifts to increase patient admissions.

12 81. The MOD specifically provides a process –which included the use of  
13 the “Weekend Manager To-Do’s” (“WMTD”) list partially created and  
14 implemented by Ms. Travers. Namely, the WMTD is a three-page guide providing  
15 the covering manager instructions on accessing Electronic Medical Records (EMR  
16 /EPIC Based) internal-and-external to Life Care of the various medical facilities  
17 throughout the Puget Sound Region.

18 82. According to EPIC,<sup>36</sup> there is over two-hundred million patient  
19 personal medical records accessible through its web-based software. Major  
20 medical providers utilize (EPIC / ePHI) for data-retrieval and storage.

21 83. The WMTD provides a step-by-step access to prospective patient  
22 admissions by accessing (online referral) web-based, patient data information  
23 from:

- 24 (a) Life Care’s Admission cellular telephone;  
25 (b) Life Care’s EMR/Softcare® and e-mail;  
26 (c) EPIC® Providence;

27 <sup>36</sup> EPIC Information accessible online at: <https://www.epic.com/about>.

- (d) EPIC Skagit Regional Health Clinics;
- (e) Allscripts ®; and
- (f) Navi Health. ®

84. Unfortunately, various local medical hospitals, or other providers allowing Life Care access to its web-portal for accessing the (electronic patient health information) is unaware that various Life Care's managers with no credible basis to have access to sensitive patient data enjoy full and unrestricted access via to ePHI/EPIC.

85. Plaintiff from June 2018 (and continuing until his discharge from Life Care) continued to complaint to Ms. Butner, Ms. Travers, Ms. Scott, and (effective, August 14, 2018), Ms. Kelly Falcon, Life Care's Corporate Vice President for Human Resources, that Life Care was actively violating patient privacy rights while actively and illegally engaging the WMTD process. Further, Plaintiff also informed his superiors at Life Care repeatedly that he refused to violate the law and access ePHI to illegally access patient private medical records.

86. In June 2018 (and continuing through August 3, 2018), Ms. Travers accused Plaintiff of not being a team player, and that he was directly hurting Life Care's census by failing to fully implement the WMTD. For example, soon after commencing supervisory authority at LCCMV, Ms. Travers entered my office and directed me to keep my office door (opened and unlocked) during business hours, despite receiving confirmation to the contrary (as reported by me)—that the Department of Social Services (DSS) office(s) were always left closed and locked when not occupied in order to safeguard the medical and mental health records of patients, consistent with LCCA (a HIPPA covered entity governing patient privacy rule), policies and as promulgated by Centers for Medicare and Medicaid also regarding patient privacy rights.

1        87. Although the SSD job description includes an expectation that LCCA:  
 2 "Promotes a culture of integrity, maintains an 'open door' policy, and does not  
 3 participate in or allow retaliation against those who report good faith concerns," I  
 4 was permitted from October 25, 2016, through May 31, 2018, considerable  
 5 discretionary authority to determine the parameters of implementing LCCA's  
 6 Open Door policy without coercion, specifically relating to keeping the door  
 7 open or closed. Additionally, the application of the open-door policy as view it has  
 8 to do with Life Care's policy to create an environment that would facilitate open-  
 9 ended conversations and/or alternatively to permit individuals to communicate  
 10 freely about work place concerns.

11        88. But when I continued to press Ms. Travers about the unsoundness of  
 12 keeping the SSD's door open (e.g., with my absence / presence and/or while  
 13 working on the floor), arguing that it may result in the increase risks of potential  
 14 breaches of patients' privacy (e.g., I was primarily concerned with the physical  
 15 documents only, as I had no concern with the digital Electronic Medical Records  
 16 at that time—believing it to be safe and secure), Ms. Travers immediately dismissed  
 17 my concerns about the privacy and potential breaches of confidential medical  
 18 records; instead she reiterated her expectations that my office door would be  
 19 opened as directed.

20        89. While exiting my office—I once again asked Ms. Travers to consider  
 21 my concerns regarding the security or sanctity of the medical records in my office,  
 22 she stated:  
 23

24                "...Well your kind of people comes from warm climates,  
 25 and you guys like to sleep in the afternoons...you  
 26 know...I am asking for the door to be left opened so that  
 27 you are not sleeping on the job."

1        90. Perplexed by her comments, I asked Ms. Travers for clarification of  
2 her above referenced statement, asking if she had any evidence that I was sleeping  
3 on the job. She responded by chuckling and walking away from my office –  
4 insisting that I follow her directives.

5        91. Further compounding my confusion regarding Ms. Travers' unseemly  
6 or cavalier response, Plaintiff began to inquire of his co-workers (Note: LCCA  
7 refers to all employees as "Life Care Associates" "LCA") Caucasian-employees,  
8 if they were required to also keep their doors unlocked or placed on work related  
9 restrictions. My immediate survey of several colleagues confirmed, however, that  
10 Ms. Travers never imposed such demands upon them. The consensus amongst  
11 some of the LCAs reveals that I was specifically targeted by Ms. Travers and that  
12 her behavior toward me was inexplicable and I believed it to be motivated by racial  
13 animus.  
14

15        92. Soon after receiving the door directives (concomitantly) by Travers  
16 and Scott a "Safe" appeared into my office without any explanation provided by  
17 anyone in Administration about the circumstances of surrounding storage of the  
18 Safe. Upon seeing the Safe at SSD's office, I inquired about the matter with LCC's  
19 Environmental and Maintenance Department ("EMD") personnel. The EMD  
20 personnel informed me that he was directed to place the Safe in SSD's office  
21 without any reason provided by Ms. Travers. The EMD worker just said: "I am  
22 following orders."

23        93. Plaintiff confirmed later that Ms. Travers ordered the placement of a  
24 "Safe" into the SSD office. A maintenance staff --who initially offered to store the  
25 Safe in his office under lock and key --was contradicted, and then directed to place  
26 the Safe into the SSD's office. I immediately contacted Ms. Travers and notified  
27



1 her that (Relator/Plaintiff) was concerned about the Safe being stored into the  
 2 SSD's office and expressed concerns for the physical safety of the Safe and further  
 3 informed her that the previous Administrator held the Safe in his office as it  
 4 contained: financial instruments; check books; credit cards; jewelry; and other  
 5 miscellaneous, but valuable items belonging to Life Care's patients. Additionally,  
 6 I explained to both Travers and Scott that the Caucasian women in the  
 7 Payroll/Business office both had a "Safe" in their offices and that during their  
 8 absence from their office -while on the floor, their respective doors were always  
 9 locked -and were not placed under such severe restrictions as me.

10  
 11 94. Although Relator/Plaintiff expressed concern for the Safe being  
 12 placed in my office with Travers and Scott, neither was able to provide an adequate  
 13 explanation for their decision(s) to keep the Safe in the SSD's office. Both Travers  
 14 and Scott, however, reiterated that the "Safe" belongs in the Social Services Office  
 15 -as the contents belongs to patients and need be readily accessible -during my  
 16 absence or presence in the workplace. Note: Ms. Travers did confirm that I did not  
 17 (and need not) have access or knowledge of the Safe insisted that she is aware that  
 18 (I) didn't have the secret code to unlock the Safe, further acknowledging that I also  
 19 did not have possession of the said Safe's inventory list.

20 95. During the intervening period between the subjects of the "Door" and  
 21 "Safe", I was interrupted by Ms. Scott and Ms. Kelly Marler, Business Office  
 22 Manager insisting that they were going to put "two cigarette lighters" into the Safe.  
 23 I objected for safety reasons -suggesting that the lighters were filled with gaseous  
 24 liquid and potentially combustible. Both Marler and Scott dismissed my safety  
 25 concerns, placed the lighters into the Safe, and walked away from my office.

26 96. Subsequent conversations about the same (relating to the Door and  
 27

1 Safe) Travers and Scott made another unannounced visit into my office and  
 2 demanded that the door to the SSD would be left unlocked and opened during  
 3 business hours. I informed Ms. Travers that her directive effectively would result  
 4 in medical and mental health records being compromised given that the SSD office  
 5 was easily accessible by customers, clients, staff, and other professionals –as the  
 6 office was located immediately adjacent to: the front-lobby at Life Care; the  
 7 corridor leading to the public access restroom; the copy center; the medical records  
 8 office, the Business offices; and the Administrative Conference room.

9  
 10 97. Despite numerous protestations to the contrary, I was not able to  
 11 convince Travers or Scott and ultimately Ms. Butner to changing course regarding  
 12 the integrity of my office space or the Safe. Having no recourse, I informed Travers  
 13 and Scott that I would be compelled to file a complaint with the Washington State  
 14 Department of Labor and Industries (“L & I”), Division of DOSH (Division of  
 15 Occupational Safety and Health) or with the United States Department of Labor  
 16 (“DOL”), Occupational Safety and Health Administration (OSHA).

17 98. Contemporaneously, I also informed Susan Roughton, Social Worker  
 18 III, Home and Community Services – Washington State Department of Social and  
 19 Health Services – of my concerns that the Safe contained “gaseous liquid and  
 20 potentially combustible” materials. Ms. Roughton stated that I had done my best  
 21 to identify the safety concerns with Life Care’s management, and that I should let  
 22 the process workout itself.

23 99. Further, on or about late July, both Ms. Travers and Ms. Scott directed  
 24 my activities –involving a female patient. This direct -hands-on-management of  
 25 case management of this patient, placed me under direct supervision of both –  
 26 subjecting me to ridicule, criticism and questioning my social work activities.  
 27

1 Specifically, Ms. Travers demanded that I visit with this female patient alone –  
2 despite my having expressed serious concerns surrounding the patient's proclivity  
3 for refusing care.

4 100. Further, I informed Ms. Travers –that “care-in-pairs” for this patient,  
5 including my participation in providing social services was necessary –she  
6 demanded that (nonetheless) I go into the room alone with the female patient –who  
7 also demanded that her room be closed as she prefers the silence and darkness of  
8 the room. I informed Ms. Travers that it was inappropriate for me to be forced to  
9 meet with a patient alone and in the dark, especially, because she expressed a  
10 preference to not to deal with Social Services. (Ms. Travers), nevertheless insisted  
11 I should do just that –stating: “Its good customer service.” After having complied  
12 with Ms. Travers' directive (with a certified nursing assistant) to meet with this  
13 patient, I placed an entry note into the patient's chart.  
14

15 101. The following date after my visit with the female patient, Ms. Scott  
16 barged into my office and demanded to know why I had entered an inappropriate  
17 note into the above-referenced female patient's chart. Ms. Scott stated: “I am very  
18 angry...you now have forced me to have to contact the State of Washington and  
19 file a patient report of neglect. Specifically, Ms. Scott construed the language I  
20 used –describing the female patient's demeanor was (inappropriate). However,  
21 upon further clarification, I informed Ms. Scott that the patient was complaining  
22 of lack of a “Welcoming Committee” as she was promised, and that the patient was  
23 also complaining about lack of timely pain medications –she was expecting to  
24 receive upon her entry into the Life Care.

25 102. On or about July 31, 2018, during a meeting with Life Care managers,  
26 Ms. Scott inexplicably brought up discussions about her intentions to “fire” some  
27

1 people. I immediately commented that a disproportionate number of single parents  
 2 and minorities would be the most likely be target for discriminatory or retaliatory  
 3 conduct by Life Care. I also spoke up and insisted that talking about firing people  
 4 would create a workplace that may cause workers to not feel safe about  
 5 complaining about (workplace) safety or likely to report discrimination or  
 6 retaliation. A medical provider at this meeting also cautioned against creating an  
 7 environment of fear in the workplace –reiterating that it is very difficult to recruit  
 8 and retain talent at Life Care.

9  
 10 103. On or about August 1, 2018, I send an electronic mail (E-mail) to: Ms.  
 11 Scott (and Dorry Wartchow, Human Resources / Payroll), containing the subject  
 12 heading: “Concerted / Protective Civil Rights Activities and Court hearings.”  
 13 Specifically, the e-mail message stated:

14  
 15 “This is to advice you that I will be requiring some time off from  
 16 my regular work schedule to be determined at a future day to  
 17 allow my participation (as witness and Plaintiff and as Co-  
 18 Plaintiff) in Court hearings scheduled in federal and state courts  
 19 (scheduled in 2018/2019) to specifically address: (1) Civil Rights  
 20 Discrimination and Retaliation (in employment context under  
 21 Title VII of the Civil Rights Act of 1964; and pursuant to  
 22 Washington State Law Against Discrimination (WLAD); (2)  
 23 Employment retaliation for filing workplace fraud, waste, and  
 24 abuse –made illegal under the federal and state ((Medicare /  
 25 Medicaid laws)) pursuant to the False Claims Act ((qui tam));  
 26 and (3) OSHA / DOSH violations ((i.e., workplace safety)).”  
 27

22 104. On or about August 1, 2018, at 6:22 p.m., Plaintiff send a text message  
 23 to his immediate supervisor (Ms. Scott) stating the following:

24 “Yesterday at our team meeting you indicated that some people may be  
 25 fired. Today I felt attacked and humiliated because of an innocent  
 26 spelling error. Please know that English is not my first language. Yes,  
 27 I do struggle with the English language, but I try. Can we discuss this  
 issues tomorrow morning after PPS? Thanks. Raju”



1       105. On or about August 1, 2018, Ms. Scott responded to Plaintiff by text-  
2 message:

3                   “Im sorry raju. I did not know English was not your first  
4 language. I was not referring to any of the managers in that  
5 meeting. Yes we can discuss tomorrow after grand rounds.”

6       106. On or about August 2, 2018, at approximately 11:30 a.m., Plaintiff  
7 met with Ms. Scott (and Dorry Wartchow, Human Resources/Payroll -was present  
8 for the first-half meeting) in her office. Ms. Scott and Plaintiff discussed his  
9 concerns involving Ms. Travers’ discriminatory (and by extension Ms. Scott’s  
10 perpetuation of the same) conduct and that Plaintiff needed to report Ms. Travers  
11 to Life Care’s Human Resources in Cleveland, Ohio.

12       107. For what Plaintiff believed was inappropriate and hostile harassment  
13 and inexplicable or incoherent conduct toward him and the manner in which he  
14 believed she subjected him to discrimination and created a hostile work  
15 environment. Ms. Scott provided no relief nor suggested any alternative course to  
16 take in order to correct Ms. Travers’ and (now, Ms. Scott’s) hostile harassment  
17 conduct.

18       108. On or about August 2, 2018, Ms. Travers --while ending her shift  
19 approached me at my office and ordered me to clean the conference room (across  
20 from my office) by (Friday) August 3, 2018. Plaintiff immediately advised her that  
21 he was not responsible for house-keeping or maintenance related activities (such  
22 as painting, cleaning walls, moving furniture, etc.,) she concluded: “Your kind  
23 knows how to clean,” and while walking away saying: “I better see” this  
24 (conference) room cleaned and ready for use “by tomorrow.”

25       109. On or about August 3, 2018, Ms. Travers ordered Plaintiff (during  
26  
27

1 Managers meeting) to conduct a Care Plan Conference (CPC) with a patient. When  
 2 Plaintiff informed Ms. Travers that the patient indicated she did not wish to  
 3 participate, Ms. Travers insisted that the CPC take place –and demanded that he  
 4 compel the patient’s participation. Plaintiff further advised Ms. Travers that  
 5 forcing the patient to participate in her own CPC was inappropriate, illegal, and  
 6 inconsistent with Life’s Care policy, federal and state policies governing patient  
 7 rights. She, however, doubled downed and approached Plaintiff again after the  
 8 meeting –insisting that a CPC was happening –insisting that the patient needs to  
 9 be discharged from Life Care, advised that she would hold-me personally  
 10 responsible for failure to complete the CPC –that morning and aggressively  
 11 seeking the patient’s discharge from the Life Care.  
 12

13 110. On or about August 6, 2018, Plaintiff submitted “Time Off Request”  
 14 for the Month of August 2018, to Ms. Scott. Incorporated into his request for time  
 15 off was a statement:

16 **“Per my e-mail of 8/1/18 Additional leave request to follow**  
 17 **for month of September 2018 ((and future)) for civil rights**  
 18 **activities and Court hearings under Title VII / WLAD, FCA,**  
 19 **etc.” Ms. Scott signed my Time Off Request, clearly having**  
 20 **constructive knowledge of my previous and current**  
 21 **protected activities whistle-blowing activities, as enumerated**  
 22 **in my August 1, 2018, electronic mail.”**

23 111. On or about August 8/9, 2018, Plaintiff was informed by a Life Care  
 24 Associate that she discovered (an) illegal entry into Life Care’s Sofcare® EMR of  
 25 a patient’s weight (Entry date, August 3, 2018), and that she discovered that there  
 26 was a large discrepancy (approximately, 90 pounds downward) in the reporting of  
 27 the weight of the said patient. Further she questioned why Social Services Director  
 would be taking the weight of a patient –as it is out of the scope of his practice.

1 This Life Care Associate and Plaintiff also caused to file a complaint with Life  
 2 Care of Centers of America's internal Information Technology ("IT") Department  
 3 in Cleveland, Tennessee. Plaintiff also submitted a written ticket and placed  
 4 multiple phone calls to the LCC's IT-system (on August 9, 2018, at 2:51 p.m.), to  
 5 report the same, and conversely by e-mail and face-to-face reporting to Ms. Scott.

6 112. On or about August 9, 2018, this same Life Care Associate –who  
 7 exposed the serious HIPPA-breach of August 8-9, 2018, reported that she was  
 8 being subject to retaliation for having brought issues of discrimination and  
 9 retaliation in the workplace, and for whistle-blowing about the significant breach.  
 10 Plaintiff once again reported his concerns to Ms. Scott about the LCA's concerns  
 11 for this worker's ability to remain on the job –as Plaintiff believed her to be a hard  
 12 worker and dedicated to Life Care for over 13 years –serving as Transportation  
 13 Coordinator and as Certified Nursing Aide.

14 113. On or about August 9, 2018, Ms. Scott's immediate response was to  
 15 inform me that Plaintiff was to continue to keep his office door open and accessible  
 16 –in spite his having reported to her and IT of a very serious HIPPA-breach. Plaintiff  
 17 did, however, continue to remind Ms. Scott of his continued concerns for HIPPA  
 18 related confidentiality, safety and security of both paper and electronic Patient  
 19 Health Information.

20 114. On or about August 14, 2018, Plaintiff was summoned by (Ms. Nancy  
 21 Butner) and Ms. Scott to meet with them in the Administrative Conference Room.  
 22 Ms. Scott handed me a "**Corrective Action Form**" ("CAF") and informed Plaintiff  
 23 that he was receiving a ("Verbal") warning and requested that he sign the  
 24 document. Ms. Scott informed Plaintiff that he was responsible (from August 14,  
 25 2018 through August 28, 2018) to address the following expectation(s):  
 26  
 27

**Expectation No. 1:** “Create notes and care plans that meet professional standards, promote resident wellbeing, and adhere to CMS guidelines and expectations.

**Expectation No. 2:** “Follow through on directives from ED and reasonable family requests.”

**Expectation No. 3:** “Resolve grievances within 72 hours per Life Care guidelines.”

**Expectation No. 4:** “Schedule and hold quarterly care conferences for every resident.”

**Expectation No. 5:** “Be an advocate for residents and their family members. Family members should not report to ED that they do not like ‘dealing with’ the social services director.

115. Plaintiff inquired about whether there were any plans for increasing staffing for the Social Services Department as Ms. Butner and Ms. Scott reiterated to him he is responsible for all of the operations of the DSS, and yes: “Including purchasing of a “vase” and a “muumuu” and for scheduling transportation, medical, dental, and other appointments for patients. Namely, Ms. Scott confirmed that the Transportation position was being transferred to the DSS, as that service was always under the DSS’s responsibilities.

116. Plaintiff inquired as to the position of the Transportation Coordinator, Ms. Scott responded: (“Ms.\_\_\_\_”), will not be returning. Plaintiff concluded that the Transportation Coordinator’s position was being terminated because of her active participation in protected activities (i.e., for reporting a significant HIPPA-breach and fraudulent documentation, discriminatory conduct, and for requesting Family Medical Leave Act (“FMLA”) to care for her “ailing mother and increasingly available to her daughter.



1 117. Notwithstanding, Plaintiff was reminded (refocused) by both Butner  
 2 and Scott that his failure to comply with the CAF –would be immediate grounds  
 3 for dismissal due to his “insubordination.” When Plaintiff pressed further if it  
 4 would be easier to just submit his “resignation,” Ms. Butner responded:

5 **“It sure would make it a lot simpler...”**

6 118. After receiving the Verbal warning, Plaintiff expressed grave  
 7 concerns to both Ms. Butner and Ms. Scott that I was being subjected to the CAF  
 8 because I filed complaints regarding the health, safety (i.e., threatened  
 9 DOSH/OSHA reporting), and welfare (of residents –i.e., that Ms. Travers was  
 10 demanding that I force a patient to participate in a Care Plan Conference (“CPC”  
 11 meeting); and for providing written notifications regarding pending Title VII /  
 12 WLAD, FCA complaints/litigations before federal or state Courts; and for  
 13 vindicating my civil rights through the federal and state Courts -under the anti-  
 14 discrimination and retaliation laws and for participating (a False Claims Act) action  
 15 in order to protect from: “waste, fraud, and abuse.”  
 16

17 119. On or about August 14, 2018, at 4:10 p.m., Plaintiff submitted an  
 18 electronic mail (E-mail) message addressed Ms. Nancy Butner, Ms. Scott, and Ms.  
 19 Dorry Wartchow his being “constructively discharged” for exercising his rights to  
 20 speak about matters of public concern, safety, and engagement in civil rights  
 21 complaints. Plaintiff closed his message with a request for an emergency meeting  
 22 to discuss the discrimination / retaliation he was experiencing. This meeting never  
 23 took place nor was he concerns for retaliation responded.

24 120. Further, Plaintiff informed Ms. Butner and Ms. Scott that he believed  
 25 was also being targeted by Life Care of Centers of America’s Management because  
 26 I engaged in whistle-blowing about the lack of security of the Electronic Medical  
 27

1 Records (EMR); both within and outside of Life Care Centers of America's ePHI  
2 records system –nationwide.

3 121. Specifically, Relator/Plaintiff reminded Ms. Butner and Ms. Scott that  
4 I had filed a verbal and written complaint and work orders through Life Care's  
5 "IT" department, including and up to cautioning IT that their EMR-system was  
6 compromised, and that Sofcare was not secure and that there was a significant  
7 breach of patient record(s).

8 122. Relator/Plaintiff also informed Ms. Butner and Ms. Scott of my  
9 efforts to place the Safe in a safe area –away from direct patient / professional staff  
10 contact with the incendiary items locked in it. Despite coordinating with the  
11 Facilities Department to get a safer area for this item, Ms. Scott insisted that it  
12 needed to remain in my office. No other similarly situated individual was treated  
13 as harshly under similar circumstances, nor required to keep their doors open and  
14 unlocked, nor be responsible for equipment that was a safety hazard.

15 123. On or about August 14, 2018, Relator/Plaintiff was assigned menial  
16 tasks that are outside of my job functions. Ms. Scott ordered me to leave the facility  
17 to buy a vase for flowers and lingerie for a patient, despite having raised concerns  
18 about pending work-related issues that were not appropriately being address by  
19 Respondent.

20 124. Furthermore, Relator/Plaintiff became aware of a co-worker who was  
21 forced to resign for attempting to report illegal activity to Respondent. Eventually,  
22 the work environment had become so hostile that he could no longer continue to  
23 subject myself to it and requested a medical leave of absence to avoid further harm.

24 125. Relator/Plaintiff was also overly scrutinized by Ms. Scott and Ms.  
25 Butner –now being placed on hyper-surveillance at work. For example, on or about  
26  
27

1 August 16, 2018, she attempted to find me insubordinate for "locking" my office,  
 2 but at the same time contradicted herself by accusing me of leaving my computer  
 3 on. As such, unless she had access to my office she wouldn't have been able to see  
 4 whether the computer was on or off. The restrictions would interfere with my  
 5 ability to complete my workload, as my job requires that he constantly leave my  
 6 office, and thus would have to turn on and off my computer close to twenty (20)  
 7 times per day (as documented on or about August 20, 2018), which resulted in my  
 8 having to leave the office due to the cumulative stress, and the hyper-surveillance  
 9 of my immediate work station by both Ms. Butner and Ms. Scott.

10 126. During this intervening period (on or August 16, 2018), Plaintiff  
 11 requested a letter of reference from his immediate supervisor, Brandon Matrone,  
 12 who stated:

13 "Dear Hiring Manager" It's my pleasure to recommend Raju  
 14 Dahlstrom for social services department. Raju and I worked  
 15 together at Life care Center of Mount Vernon skilled nursing  
 16 facility. As a social worker and discharge planner I relied on him  
 17 to promote quality care with dignity and respect for the resident  
 18 and families we served, and to be an advocate for services they  
 19 needed to enhance their daily activities. As part of the  
 20 interdisciplinary team he was an impressive problem solver who  
 21 is always willing to go above and beyond with smile. I  
 22 thoroughly enjoyed my time working with Raju and have come  
 23 to know him as an asset to the residents discharging to the  
 24 community, and those remaining for long-term care. He is  
 25 honest, dependable and incredibly hard-working to ensure that  
 26 services are setup prior to discharge, and the needs are met once  
 27 our residents have returned home. Without a doubt, I confidently  
 recommend Raju to join your healthcare team. As a dedicated  
 and knowledgeable employee and an all-around great person, I  
 know that he will be a beneficial addition to your  
 organization...Best wishes, Brandon Matrone, MSW, LNHA,  
 Administrator."

127. Plaintiff alleges that he was subjected to a pattern of unequal terms  
 and conditions of employment for engaging in protected activity (and for

1 advocating for other Life Care Associates), that resulted in his constructive  
2 discharge on or about August 31, 2018. Furthermore, he was subjected to  
3 disparaging remarks because of his national origin, that he believed played a role  
4 in the disparate treatment.

5 128. Relator/Plaintiff notified Jennifer K. Scott, the Interim Executive  
6 Director, that he was participating in state and federal court proceedings involving  
7 Title VII of the Civil Rights Act of 1964, as amended, among other federal and  
8 state statutes. Relator/Plaintiff also consistently raised concerns about policy  
9 violations, illegal activity, and the difference in treatment against me, to no avail.  
10 After bringing my concerns to Nancy Butner, the Vice President, and whether  
11 Relator/Plaintiff was being forced to resign she stated: "it would make it simpler  
12 for all of us."  
13

14 129. From on or about June, July, August 2018 (and continuing)  
15 Relator/Plaintiff has been engaged in protected activities and have utilized both  
16 Life Care Centers of America's processes (and external processes) to vindicate the  
17 rights of patients, professionals, and my personnel matters –in order to ensure a  
18 workplace that is safe from discrimination and retaliation.

19 130. On or about August 16, 2018 (and August 17, 2018) Plaintiff notified  
20 his immediate supervisor, Ms. Scott that he had to take the extra-ordinary steps to  
21 address a patient concern, (i.e., patient forced to defecate, sit in her own urine and  
22 feces, and suffer in pain, without timely assistance...further a previous complaint  
23 –involving the same set of facts of extreme neglect of patient was reported –  
24 namely, that patient's bedpan was parked parallel to her meal tray –implicating  
25 serious health hazard, and extreme tortious treatment of a patient) at the Life Care  
26 Center.  
27



131. Ms. Scott, however, ignored my complaint, refused to acknowledge the severity of Plaintiff's documented patient's complaint, instead –taking the opportunity to remind Plaintiff that he was leave his door unlocked and opened during business hours.

132. Instead she submits a (reminder) notice involving the need for keeping my office door opened in an electron mail message dated: Friday, August 17, 2018, at 6:41 (time-stamped EST, Standard Pacific Time –3:41 p.m.). The e-mail stated:

**“Raju, you need to keep your door unlocked during business hours as you have been previously instructed or we need to make sure that the business office has a key. When I went into your office just now to get something I printed, your screen was unlocked and unattended and softcare was open. You have been instructed by myself and IT to lock your screen when you leave your desk.”**

133. Relator/Plaintiff was also overly scrutinized by Ms. Scott and Ms. Butner –now being placed on hyper-surveillance at work. For example, on or about August 16 and 17, 2018, she attempted to find Relator/Plaintiff insubordinate for "locking" my office, but at the same time contradicted herself by accusing me of leaving my computer on. As such, unless she had access to my office she wouldn't have been able to see whether the computer was on or off. The restrictions would interfere with Relator/Plaintiff ability to complete my workload, as his job requires that he constantly leave my office, and thus would have to turn on and off the work computer close to twenty (20) times per day (as documented on or about August 20, 2018), which resulted in my having to leave the office due to the cumulative stress, and the hyper-surveillance of my immediate work station by both Ms. Butner and Ms. Scott.

1 134. Further, Relator/Plaintiff believe that he was being subjected to illegal  
 2 (discriminatory/retaliatory) treatment by Ms. Nancy Butner, Regional Vice  
 3 President for Life Care Centers of America was responsible for providing direct  
 4 supervision of Ms. Travers and Ms. Scott, for his participation in protected  
 5 activities and for revealing FCA violations by Life Care Centers of America., Inc.,  
 6 which was in direct contravention to their Settlement Agreement and Corporate  
 7 Integrity Agreement/Disclosures entered with the United States in 2016.

8 135. Additionally, Ms. Butner exercised considerable supervisory  
 9 authority (along with Ms. Travers and Ms. Scott) over me during all relevant period  
 10 of this complaint and is responsible for applying work rules or policies  
 11 *disproportionately* against me, whereas other Caucasian LCCMV managers could  
 12 operate with impunity.  
 13

14 136. Relator/Plaintiff believe that he has been subjected to intolerable  
 15 working conditions when, among other things, Life Care Centers of America failed  
 16 to take any meaningful action in response to my complaints; failed to take  
 17 reasonable measures to correct the harassing conduct; target me as a [failed]<sup>37</sup>  
 18 employee; refusal to acknowledge that he was a victim of (trageted discrimination  
 19 and retaliation); and condoned and permitted Ms. Butner, Ms. Travers, and Ms.  
 20 Scott and (through misuse of colleagues, in the present of the highest levels of  
 21 management, to demean, disparage, and insult him, and to take actions against me  
 22 –to discourage or prevent him for working in a hostile-free work environment.

23 137. This retaliatory conduct created working conditions so intolerable that  
 24 a reasonable person would have felt compelled to resign. Alternatively, that he  
 25

26 <sup>37</sup> During the period between June, July, and August 2018, Respondent actively solicited from staff and patients  
 27 alike any derogatory information to attack Raju A.T. Dahlstrom, as evidenced in a pre-textual use of an internal survey –  
 performed –ostensibly on call-lights/wait times –where patients complained of waiting over two or three hours, without any  
 pain relief or minimal (timely) assistance to receive “toileting” or “pain” relief.

1 Relator/Plaintiff find it now impossible to return to work, and subsequently placed  
 2 under medical care, and for the foregoing reasons, Relator/Plaintiff believe  
 3 believes he was also subjected to discrimination and retaliation (for his FCA  
 4 activities) and also he was subjected to conduct due to his national origin, East  
 5 Indian, and retaliated against for having engaged in protected activity (and  
 6 whistleblowing about the health, safety, and welfare of residence;<sup>38</sup> and for  
 7 bringing significant HIPPA breaches to the attention of my employer, and lastly  
 8 complaining discrimination or retaliation under Title VII of the Civil Rights Act of  
 9 1964, as amended.<sup>39</sup>

10 138. Relator/Plaintiff acknowledges that his Title VII and WLAD claims  
 11 are not being litigated in this instant FCA complaint as it is currently under  
 12 investigation by the United States Equal Employment Opportunity of Commission.  
 13 He is providing this information to provide full and complete disclosure and for  
 14 illustrative purposes as to the ongoing discriminatory and retaliatory conduct he  
 15 experienced at while employed at Life Care Centers of America, Incorporated.  
 16

## 17 **VIII. CLAIMS FOR RELIEF**

### 18 **Count I**

#### 19 **False or Fraudulent Claims (31 U.S.C. § 3729(a)(1)(A))** 20 **(previously 31 U.S.C. 3729(a)(1)1986)**

21 139. The Relator repeats and realleges above paragraphs, as if fully set  
 22 forth herein.

23 140. The defendant knowingly presented, or caused to be presented, to an  
 24 officer or employee of the United States of America, the State of Washington,  
 25

26 <sup>38</sup> See also: 81 Fed. Reg. 68,688-01 (Oct.4, 2016).

27 <sup>39</sup> Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

1 Northwest Regional Council ("NWRC"), Government or State of Washington, or  
 2 its payee-designee, false or fraudulent claims for payment or approval, in violation  
 3 of the False Claims Act, 31 U.S.C. § 3729(a)(1)(A), specifically, claims for  
 4 payment to Medicare or Medicaid, for medically unreasonable, unnecessary and/or  
 5 other services interventions (under) the Health Homes Programs.

6 141. Because of the defendant's acts, the United States, et al., sustained  
 7 damages in an amount to be determined at trial, and therefore is entitled to treble  
 8 damages under the False Claims Act, plus civil penalties of not less than \$5,500  
 9 and up to \$11,000 for each violation.

## 10 Count II

### 11 **False Statements (31 U.S.C. § 3729(a)(1)(B))** 12 **(previously 31 U.S.C. 3729(a)(2) (1986) (Sunrise)**

13  
 14 142. The United States repeats and realleges above paragraphs, as if fully  
 15 set forth herein.

16 143. The defendant knowingly made, used, or caused to be made or used a  
 17 false record or statement material to a false or fraudulent claim, in violation of the  
 18 False Claims Act, 31 U.S.C. § 3729(a)(1)(B), including false Minimum Data Sets  
 19 utilized by the Sunrise Services, Inc., for billing services—that they knowingly or  
 20 had constructive knowledge that it was false after Relator complained to Sunrise  
 21 and NWRC Representative Acosta and Life Care.

22 144. Because of the defendant's acts, the United States sustained damages  
 23 in an amount to be determined at trial, and therefore is entitled to treble damages  
 24 under the False Claims Act, plus civil penalties of not less than \$5,500 and up to  
 25 \$11,000 for each violation.

## 26 COUNT III



**Unjust Enrichment by Sunrise**

145. The Relator repeats and realleges above paragraphs, as if fully set forth herein.

146. By virtue of submitting claims to Medicare for medically unreasonable, unnecessary, and unskilled services, the defendant obtained inflated payments from the United States.

147. Thus, the defendant was unjustly enriched at the expense of the United States of America, et al., in such amounts, as determined at trial.

**COUNT IV**

**Payment by Mistake (Sunrise)**

148. The Relator repeats and realleges above paragraphs, as if fully set forth herein.

149. The defendant submitted claims for Health Homes Program to Medicare, when that level of care was not medically unnecessary. The United States paid more money to maintain the façade that the Health Home Program were beneficial to the detriment of patient(s) entering in and out of their primary resident (Health Homes), hospitals, and skilled nursing facilities (revolving doors) than it would have had the defendant not submitted claims for medically unreasonable and unnecessary rehabilitation or other ancillary supportive services.

**COUNT V**

**Conversion (Sunrise)**

150. The Relator repeats and realleges above paragraphs, as if fully set forth herein.

151. By virtue of the acts described, and specifically by submitting claims and obtaining payment for Health Home Program services that were medically

unnecessary, unreasonable, unskilled or otherwise failed to meet Medicare criteria for coverage and payment, Defendant has appropriated the United States' property to its own use and benefit and has exercised dominion of such property in defiance of the United States' rights.

152. Defendant is, therefore, liable to the United States for actual damages in an amount to be determined at trial.

### **COUNT VI**

#### **FCA Retaliation -31 U.S.C. § 3730(h) by Defendants Life & Sunrise**

153. *Simply restated: Patient A* is a pseudonym for a patient –who was alleged to have been subject to neglect at the hands of Relator, upon discharge from the Life Care Center in or around 2017. Specifically, an Adult Protective Services (APS) Social Worker with the State of Washington, Department of Social and Health Services (DSHS) notified Relator in or around November 2017 that he was subject of an investigation –as a result of a referral he received involving Patient A being discharged from Life Care Center of Mount Vernon without adequate resources.

154. This is despite Patient A having been referred for follow up medical care at the Upper Skagit Tribal Health Clinic, located in Sedro Wholly, Washington. Additionally, Patient A was being assisted with medical services from a provider who is directly related to and FCA-Defendant –who is or was employed at the Sauk-Suiattle Indian Tribe. Further, the DSHS was made a Defendant in a Title VII / WLAD discrimination and retaliation complaint among other things in which the Relator is or was a (Plaintiff along with his spouse) in separate actions pending on federal and state court.

1 155. Hence, both Sauk-Suiattle Indian Tribal personnel and DSHS  
 2 personnel conspired and colluded to facilitate a false allegation report against  
 3 Relator –which caused significant strain and distress for Relator while employed  
 4 at the Life Care –as he had to fend off against a false report of “neglect.”  
 5 Ultimately, Relator was notified that he was no longer subject of an investigation  
 6 by the DSHS/APS in February 2018. Patient A is a pseudonym to provide adequate  
 7 HIPPA-privacy.

8 156. **Patient B** is a pseudonym for a patient –who was alleged to have been  
 9 subject to neglect at the hands of Relator, while Patient B was a patient at Life Care  
 10 from on or about April to July 2018. Patient B was also alleged to be a victim of  
 11 Relator –in that upon Patient B’s death at a hospital, the Health Homes Care  
 12 Coordinator and Tia Y. Mathews, an employee of the Department of Social and  
 13 Health Services, Division of Developmental Disabilities –jointly filed a “whistle-  
 14 blower” complaint on or about July 2018, with the State of Washington,  
 15 Department (DOH), alleging Relator was responsible for Patient B’s (neglect)  
 16 resulting in Patient B’s death.

17 157. From on or about April 2018 to Patient B’s death, Relator informed  
 18 the Health Home Care Coordinator and Peter Acosta of Northwest Regional  
 19 Council (NWRC) of the appropriateness of Patient B’s enrollment and  
 20 continuation of services –given that the services provided by Sunrise Services, Inc.,  
 21 was fraudulent and duplicative. Further, Relator shared his concerns regarding  
 22 FCA-violations committed by Sunrise to both Acosta and Life Care increasingly  
 23 in July and August 2018. Relator’s concerns regarding the FCA violations were  
 24 dismissed by Acosta/NWRC and Life Care. As a result of Relator’s role in  
 25 exposing FCA violations by Sunrise and Life Care’s apparent dismissiveness –he  
 26  
 27

1 was rewarded by defending against another “neglect” complains, this time filed by  
2 the DSHS and Sunrise personnel –in retaliation for Relator’s involvement in  
3 protected activities.

4 158. The FCA’s retaliation provision entitles an employee to relief if he is  
5 “discharged, demoted, suspended, threatened, harassed, or in any other manner  
6 discriminated against . . . *because of* lawful acts done . . . in furtherance of an  
7 action” under the FCA. 31 U.S.C. § 3730(h).

8 159. Relator was subjected to retaliation by Life Care and Sunrise after he  
9 complained of violations of FCA –namely, the Sunrise’s Health Home program  
10 was a sham and Life Care’s efforts to silence him from vindicating his rights under  
11 the FCA provisions.

12 160. Specifically, Life Care retaliated against Relator for raising FCA  
13 violations in July, August 2018, and was constructively discharged in part for his  
14 exercising his rights to complaint about Sunrise’s sham activities under the Health  
15 Home programs (Medicare and Medicaid funded).

16 161. Sunrise knowingly also subjected Relator to false reporting that he  
17 contributed to the negligent death of Patient B, and it also injured his ability to be  
18 considered for (prospective employment with Sunrise) for his participation in FCA  
19 activities.

20 162. Further, the FCA imposes liability on organizations that knowingly  
21 defraud the government. See 31 U.S.C. § 3729(a)(1)(A)–(B). Because employees  
22 are often in the best position to identify and report fraud, the FCA contains a  
23 whistleblower provision that protects them from retaliation by these organizations.  
24 *Id.* § 3730(h)(1). This anti-retaliation provision states: Any employee, contractor,  
25 or agent shall be entitled to all relief necessary to make that employee, contractor,  
26  
27



1 or agent whole, if that employee, contractor, or agent is discharged, demoted,  
 2 suspended, threatened, harassed, or in any other manner discriminated against in  
 3 the terms and conditions of employment because of lawful acts done by the  
 4 employee, contractor, agent or associated others in furtherance of an action under  
 5 this section or other efforts to stop 1 or more violations of this subchapter. *Id.*

6 163. The FCA imposes significant penalties on any person who  
 7 "knowingly presents, or causes to be presented, a false or fraudulent claim for  
 8 payment or approval" to the Government or any person who "knowingly makes,  
 9 uses, or causes to be made or used, a false record or statement material to a false  
 10 or fraudulent claim." 31 U.S.C. § 3729(a)(1)(A)-(B).

11 164. Rather than rely solely on federal enforcement of these provisions,  
 12 Congress decided to deputize private individuals, encouraging them to come  
 13 forward with claims on behalf of the Government in the form of qui tam  
 14 suits. Qui tam provisions are not new to federal law, appearing as early as the  
 15 first Congress. J. Randy Beck, *The False Claims Act and the English Eradication*  
 16 *of Qui Tam Legislation*, 78 N.C. L. REV. 539, 554 n.54 (2000). In fact, the FCA  
 17 and its qui tam provisions emerged "midway through the Civil War, in response to  
 18 frauds perpetrated in connection with Union military procurement." *Id.* at 555.

19 165. Under the FCA's qui tam provisions, "a private party, called the  
 20 relator, challenges fraudulent claims against the [G]overnment on the  
 21 [G]overnment's behalf, ultimately sharing in any recovery." *United States ex rel.*  
 22 *Shea v. Cellco P'ship*, 863 F.3d 923, 926 (D.C. Cir. 2017); see 31 U.S.C. §  
 23 3730(b). The relator may be awarded up to thirty percent of the proceeds  
 24 ultimately recovered. 31 U.S.C. § 3730(d). Relators need not allege personal  
 25 injury but instead sue "to remedy an injury in fact suffered by the United  
 26  
 27

1 States." Vt. Agency of Nat. Res. v. United States ex rel. Stevens, 529 U.S. 765,  
 2 771 (2000). The Government may intervene in any qui tam action, taking over  
 3 from the relator, The FCA provides that a "copy of the complaint . . . shall be served  
 4 on the Government." Id. § 3730(b)(2).

5 166. "The complaint shall be filed in camera, shall remain under seal for at  
 6 least 60 days, and shall not be served on the defendant until the court so  
 7 orders. The Government may elect to intervene and proceed with the action within  
 8 60 days after it receives both the complaint and the material evidence and  
 9 information." Id. Moreover, the "Government may, for good cause shown, move  
 10 the court for extensions of the time during which the complaint remains under  
 11 seal." Id. § 3730(b)(3). "Before the expiration of the 60-day period or any  
 12 extensions," however, the Government shall "(A) proceed with the action, in which  
 13 case the action shall be conducted by the Government; or (B) notify the court that  
 14 it declines to take over the action, in which case the person bringing the action shall  
 15 have the right to conduct the action." Id. § 3730(b)(4).  
 16

### 17 PRAYER FOR RELIEF

18  
 19  
 20 WHEREFORE, the Relator on behalf of the United States demands and prays that  
 21 judgment be entered in its favor against Life Care and Sunrise as follows:

- 22 A. On the First Count under FCA, for the amount of the United States'  
 23 damages, trebled as required by law, and such civil penalties as are required  
 24 by law together with all such further relief as may be just and proper.  
 25 B. On the Second Count under FCA, for the amount of the United States'  
 26 damages, trebled as required by law, and such civil penalties as are required  
 27 by law together with all such further relief as may be just and proper.  
 C. On the Third Count for unjust enrichment, for the damages sustained and/or  
 amounts by which Sunrise was unjustly enriched or which Sunrise retained

1 and obtained monies to which it was not entitled, plus interest, costs, and  
 2 expenses.

- 3 D. On the Forth Count for payment by mistake, for the amounts by which  
 4 Sunrise obtained to which it was not entitled, plus interest, costs, and  
 5 expenses.  
 6 E. On the Fifth Count for conversation, for the damages sustained by the United  
 7 States on an amount to be determined at trial, plus interest, costs and  
 8 expenses.  
 9 F. On Sixth Count for retaliation by Life Care and Sunrise because Relator filed  
 10 FCA complaints, about Sunrise, Life Care, and against his former employer,  
 11 Sauk-Suiattle Indian Tribe and against Sunrise for filing false "whistle-  
 12 blower" complaints with the State of Washington, Department of Health --  
 13 in order to avoid and distract from their active FCA violations --in their role  
 14 of collecting monies through the Medicare and Medicaid programs and in  
 15 its operations of the Health Home programs in general.  
 16 G. All other relief as may be required or authorized by law and in the interest  
 17 of justice.

18 Respectfully submitted by:

19 DATED this 23<sup>rd</sup> day, October 2018

20   
 LAKE HILLS LEGAL SERVICES, PC.,

21 /s/ Richard L. Pope, Jr.

22 RICHARD L. POPE, JR.

23 WSBA # 21118

24 Attorney for Relator/Plaintiff

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